

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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STATE OF NEW YORK, et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT  
OF COMMERCE, et al.,

Defendants.

18-CV-2921 (JMF)

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NEW YORK IMMIGRATION  
COALITION, et. al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
COMMERCE, et. al.,

Defendants.

18-CV-5025 (JMF) (Consolidated Case)

**NOTICE OF FILING OF DEPOSITION DESIGNATIONS FOR CENSUS BUREAU  
30(b)(6) VOLUMES ONE AND TWO**

Plaintiffs hereby file with the Court the synopsis of deposition excerpts (Exhibit 1) and the deposition excerpts (Exhibit 2) for Census Bureau 30(b)(6) (John Abowd) Volume One that will be offered as substantive evidence, and the synopsis of deposition excerpts (Exhibit 3) and the deposition excerpts (Exhibit 4) for Census Bureau 30(b)(6) (John Abowd) Volume Two that will be offered as substantive evidence.

Respectfully submitted,

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Summary: Census Bureau 30(b)(6) (John Abowd) Vol. 1 (August 29, 2018)

Question sequencing can affect response rates. Tr. 14-15. Citizenship questions on previous surveys were preceded by a question on place of birth (nativity); the 2020 question will not. Tr. 22-23. The Bureau is not aware of cognitive testing of the question without a preceding question on nativity. Tr. 24. The 2020 Census questionnaire will not be field tested. Tr. 26-27.

The Bureau produces redistricting data with total population at the census block level (the “PL 94-171 data file”), which has never contained citizenship data. Tr. 38-40. The Bureau’s tabulation of citizen voting-age population (CVAP) is a separate data set, based on ACS data aggregated from 5 consecutive years (“5-year ACS estimates”), because 1-year ACS estimates are unreliable for areas with populations less than 65,000. Tr. at 41-44. Before December 2017, the Bureau never heard from DOJ that existing CVAP data were insufficient. Tr. at 44. Although it is based on the decennial enumeration, P.L. 94-171 data also has margins of error. Tr. at 48-49.

The Bureau will apply data disclosure avoidance to the CVAP tabulation, including “synthetic data noise infusion,” where a sensitive characteristic is replaced with a value based on a mathematical model. Tr. at 50-54. As a result, block-level CVAP data based on responses to the citizenship question will still have margins of error. Tr. at 65-71. The Bureau has not yet determined whether CVAP data will be based primarily on responses to the citizenship question on the 2020 Census, or whether CVAP will be included in the P.L. 94-171 data file. Tr. 55-62.

Acting Census Bureau Director Jarmin described using administrative data instead of a citizenship question as “the best way to provide” block-level CVAP data to DOJ, in part because survey respondents sometimes say that they are citizens even though administrative records, which are verified based on legal documents, indicate that they are noncitizens. Tr. 75-92. Around 30% of noncitizens respond as citizens on the ACS; there is no reason to believe that responses on the census will be more accurate. Tr. 92-96. The Bureau sought a meeting with DOJ to discuss using administrative records instead of a citizenship question, but DOJ refused to meet, which is unusual. Tr. 96-99. The Bureau does not know if CVAP data based on responses to the citizenship question will be any more precise than existing CVAP data. Tr. 100-01.

The Bureau has indicators that nonresponse rates to the ACS citizenship question among noncitizens are increasing. Tr. 105-35. The Bureau does not think that adding a citizenship question to the Census is a good idea. Tr. 139. The Bureau thinks that the Census questionnaire including a citizenship question has not undergone adequate cognitive testing. Tr. 142-43.

Testing used for planning non-response follow-up (NRFU) efforts to reach households that do not self-respond to the census has not included the citizenship question. Tr. 198-201, 225. There is no evidence that various NRFU methods will be as successful for households that do not respond to the citizenship question, or are as accurate as self-responses. Tr. 251-61. The larger macro-environment, including low unemployment and the political context resulting from the citizenship question, may make it harder to hire enumerators for NRFU. Tr. 314-16.

OMB Standards and Guidelines for Statistical Surveys Section 2.3 requires agencies to balance maximizing data quality while controlling measurement error and minimizing respondent burden and cost; but Secretary Ross’s choice of Alternative D (asking a citizenship question and using administrative records) results in lower data quality, has a higher respondent burden and higher cost than Alternative C (using administrative records alone). Tr. 321. Placing a citizenship question on the Census will not facilitate the imputation of citizenship status for people who lack administrative records. Tr. 326-30. The Census Bureau does not believe that the inclusion of the citizenship question on the census is necessary to provide complete and accurate data in response to DOJ’s request. Tr. 331.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NEW YORK IMMIGRATION COALITION, ET AL.,

Plaintiffs,

vs. Case No. 1:18-CF-05025-JMF

UNITED STATES DEPARTMENT OF COMMERCE, ET AL.,  
Defendants.  
-----

Washington, D.C.

Wednesday, August 29, 2018

Deposition of:

DR. JOHN ABOWD

called for oral examination by counsel for  
Plaintiffs, pursuant to notice, at the office of  
Arnold & Porter, 601 Massachusetts Avenue NW,  
Washington, D.C., before KAREN LYNN JORGENSEN,  
RPR, CSR, CCR of Capital Reporting Company,  
beginning at 9:06 a.m., when were present on  
behalf of the respective parties:

Veritext Legal Solutions

Mid-Atlantic Region

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7 VIDEOGRAPHER: Dan Reidy  
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1 P R O C E E D I N G S

2 WHEREUPON,

3  
4 VIDEOGRAPHER: Good morning. We're going  
5 on the record at 9:06 a.m. on Wednesday August 29,  
6 2018. Please note that the microphones are  
7 sensitive and may pick up whispering and private  
8 conversations. Please turn off all cell phones  
9 and place them away from the microphones, as they  
10 can interfere with the deposition audio. Audio  
11 and video recording will continue to take place  
12 unless all parties agree to go off the record.

13 This is Media Unit 1 of the video  
14 recorded deposition of Dr. John Abowd taken by  
15 counsel for the plaintiff in the matter of the  
16 New York Immigration Coalition, et al., v.  
17 United States Department of Commerce, et al. This  
18 case is filed in the U.S. District Court of the  
19 Southern District of New York. This deposition is  
20 being held at the law offices of Arnold & Porter  
21 located at 601 Massachusetts Avenue Northwest,  
22 Washington, D.C. 20001.

1           My name is Dan Reidy from the firm  
2           Veritext Legal Solutions, and I'm the  
3           videographer. The court reporter is  
4           Karen Jorgenson from the firm Veritext Legal  
5           Solutions.

6           I am not authorized to administer an  
7           oath. I am not related to any party in this  
8           action, nor am I financially interested in the  
9           outcome.

10           Also, counsels' appearances will be noted  
11           on the stenographic record rather than orally at  
12           this time.

13           Will the court reporter please swear in  
14           the witness?

15                           DR. JOHN ABOWD,  
16           called as a witness, and having been first duly  
17           sworn, was examined and testified as follows:

18           THE WITNESS: I do.

19                           EXAMINATION BY MR. HO:

20           Q    Dr. Abowd, before we get started, I just  
21           want to confirm something on the record with your  
22           counsel.

1 MR. HO: And that is that after 6:00 p.m.  
2 last night, plaintiffs' counsel received a 77-page  
3 extended white paper analyzing, among other  
4 things, the effect of adding a citizenship  
5 question on data quality and response dates. That  
6 white paper was dated August 6, 2018. We also  
7 received 29 documents that apparently went through  
8 the Title 13 DRV review process last week and  
9 those 29 documents were deemed nonconfidential.

10 We received these documents after  
11 6:00 p.m. last night.

12 Is that your understanding, also,  
13 Stephen?

14 MR. EHRLICH: I don't have that email in  
15 front of me, but I believe it was yesterday  
16 evening.

17 MR. HO: Okay. We have not had adequate  
18 time to review those documents in order to prepare  
19 for today's deposition. So we'd just like to ask  
20 for your consent to keep today's deposition open  
21 past today in order for -- for the limited  
22 purposes of questioning Dr. Abowd about the

1 documents that were produced last night.

2 MR. EHRLICH: We're not going to consent  
3 to that at this time.

4 MR. HO: Oh.

5 MR. EHRLICH: We can see how we go, and  
6 if you have questions, you can ask Dr. Abowd about  
7 this. We can see where we are at the end of the  
8 day. I don't anticipate more than seven hours  
9 being needed.

10 MR. HO: We can't ask questions about  
11 those documents because we haven't had adequate  
12 time to review them, so --

13 MR. EHRLICH: You can ask questions  
14 generally about the topics and things like that.  
15 We can see where we land at the end of the day.

16 MR. HO: So the record is clear, you're  
17 not consenting to permit us to depose Dr. Abowd  
18 about the documents that were produced last night  
19 after 6:00 p.m. after today; is that correct?

20 MR. EHRLICH: We're not consenting to  
21 further time right now, correct.

22 MR. HO: I didn't ask about further time.

1 My question was about the date. You're not  
2 consenting to permit us to depose Dr. Abowd about  
3 the documents that were produced after 6:00 p.m.  
4 yesterday, correct?

5 MR. EHRLICH: We sent them to you, and  
6 you're free to use them today. We're not  
7 consenting to more than seven hours.

8 MR. HO: My question wasn't about the  
9 length of deposition. My question was about  
10 whether or not we could continue the deposition  
11 after today, and your position is you're not going  
12 to consent to us deposing Dr. Abowd after today  
13 about documents that you produced after the close  
14 of business last night; is that right?

15 MR. EHRLICH: Correct.

16 BY MR. HO:

17 Q Dr. Abowd, could you state your name and  
18 spell it for the record?

19 A My name is John Abowd; J-O-H-N,  
20 A-B-O-W-D.

21 Q Thank you.

22 Dr. Abowd, my name is Dale Ho, and I

1 represent the New York Immigration Coalition  
2 plaintiffs in the case in the Southern District of  
3 New York.

4 Before we start today, I just want to go  
5 over a few ground rules of today's deposition; is  
6 that okay?

7 A Yes.

8 Q You understand that you're under oath,  
9 under penalty of perjury today, correct?

10 A Yes.

11 Q Is there any reason you can't testify  
12 truthfully today?

13 A No.

14 Q I'm going to ask you when I ask a  
15 question to please always respond verbally,  
16 because the court reporter can't record gestures  
17 or grunts like uh-huh; is that okay?

18 A Understood.

19 Q Just so the court reporter can take  
20 everything down, can I ask you to wait until I  
21 finish asking a question before you start  
22 answering?



1 A Yes.

2 Q And any time you want to take a break is  
3 okay. The only exception to that is if I posed a  
4 question to, or if anyone else has, to answer that  
5 question before your break; is that okay?

6 A Yes.

7 Q Great. You understand that you're  
8 testifying today as a representative of the  
9 Census Bureau, right?

10 A I do, yes.

11 Q As a representative of the Census Bureau,  
12 you'd agree that question sequencing can affect  
13 the response rate to a survey, right?

14 A Yes.

15 Q So, in other words, you would agree that  
16 if you preface one question, another question or  
17 questions, that would affect the survey response  
18 rate, right?

19 A Yes.

20 Q And as representative of the  
21 Census Bureau, you'd agree that question  
22 sequencing can affect the accuracy of responses to

1 that question survey, right?

2 MR. EHRLICH: Objection. Form.

3 THE WITNESS: I understood your question

4 to be that the sequence of questions on a

5 questionnaire can affect the data quality produced

6 by that questionnaire. If that's what your

7 question was, my answer is yes.

8 BY MR. HO:

9 Q Great. So you'd agree that if you  
10 preface one question with another particular  
11 question or questions, that that could affect the  
12 data quality in terms of the accuracy of the  
13 response to the question, right?

14 A Yes.

15 Q You'd agree that question sequencing can  
16 affect the response rates to a survey in ways that  
17 you wouldn't necessarily anticipate at the  
18 question drafting stage, right?

19 A Yes.

20 Q And one way you would know that -- sorry.  
21 Let me start that again.

22 One way that you would know whether

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1 question sequencing affected response rates would  
2 be to test a question in the sequence that it's  
3 going to be asked, right?

4 A Yes.

5 Q I want to show you a document, we'll mark  
6 it as Exhibit 1.

7 (Plaintiffs' Exhibit 1, Questionnaire for  
8 the American Community Survey, was marked.)

9 BY MR. HO:

10 Q Dr. Abowd, this is the questionnaire for  
11 the American Community Survey downloaded from the  
12 Census Bureau website. Does that look correct to  
13 you?

14 A The document I see is the current paper  
15 form of the American Community Survey.

16 Q Okay. Could we turn to Page 8 of the ACS  
17 survey? And in the left-hand column, Question  
18 Number 8 is a question about citizenship; is that  
19 right?

20 A Yes. That's correct.

21 Q Now, Question Number 7, the question that  
22 immediately precedes the question -- the

1 citizenship question, is a question about where  
2 the person was born; is that right?

3 A Yes. That's correct.

4 Q Now, you said this is the print version  
5 of the ACS survey questionnaire, right?

6 A Yes. That's correct.

7 Q There's also an Internet version of the  
8 ACS questionnaire, right?

9 A Yes.

10 Q Now, if someone answers  
11 Question Number 7, the question about where a  
12 person was born and says that the person was born  
13 in the United States, while taking the Internet  
14 ACS survey questionnaire, does that person then  
15 see Question Number 8, the question about whether  
16 or not the person is a citizen?

17 A No.

18 Q So if someone says --

19 A Excuse me for a second.

20 THE WITNESS: I'm trying to speak up. If  
21 you can't hear me, let me know. When my voice  
22 fades -- I noted it just fade- -- I have to think

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1 about it.

2 BY MR. HO:

3 Q Thank you.

4 So just to be clear, if someone is taking  
5 the ACS Internet survey and they answer in  
6 response to the question, where was this person  
7 born, in the United States, that person does not  
8 see a -- and the answer -- the person was born in  
9 the United States, that person does not see the  
10 citizenship question, right?

11 A That's correct.

12 Q So if someone says they're born in the  
13 United States in response to the ACS Internet  
14 survey, there's no way to measure item response or  
15 nonresponse to a citizenship question for that  
16 person, right?

17 A No. That's not technically correct.

18 Q Okay. Could you explain?

19 A When we compute item nonresponse rates,  
20 we would have converted the yes answer from  
21 the -- you were born in the United States to a  
22 response citizen --

1 Q I see.

2 A -- and then we would compute item  
3 nonresponse and item allocation rates on that  
4 basis.

5 Q So everyone who answers the Question 7 on  
6 the ACS Internet survey and says that the person  
7 was born in the United States, that person gets an  
8 imputed, yes citizenship answer for  
9 Question Number 8; is that correct?

10 A I wouldn't have used the word imputed.  
11 They get coded as citizen.

12 Q Okay. Thank you.

13 I want to show you another document.  
14 We'll mark this as Census Exhibit 2 --

15 (Plaintiffs' Exhibit 2, Census 2000  
16 questionnaire, was marked.)

17 BY MR. HO:

18 Q Dr. Abowd, this is the long form census  
19 2000 questionnaire download from the Census Bureau  
20 website.

21 MR. EHRLICH: Is that a question?

22 BY MR. HO:

1 Q Does that appear correct to you?

2 A This is the person section. I'm looking  
3 for the housing section.

4 Q I think it's only the person section.

5 A Okay. Then, yes. This is the person  
6 section of the long form from 2000 --

7 Q From 2000?

8 A -- census, yes.

9 Q Could you turn to Page 4? On the  
10 right-hand column, question Number 13 on the 2000  
11 long form is a question about whether or not a  
12 person is a citizen of the United States; is that  
13 right?

14 A Yes. That's Question 13.

15 Q And just like on the ACS, the 2000 long  
16 form question about citizenship is immediately  
17 prefaced by a question -- or preceded by a  
18 question about where the person was born; is that  
19 right?

20 A Yes. That's correct.

21 Q I want --

22 A Actually, let me modify it. It's not

1 just like the ACS you showed me, but the questions  
2 are in the same order.

3 Q Thank you. I want to show you another  
4 document. We'll mark it as Exhibit 3.

5 (Plaintiffs' Exhibit 3, 1950 census  
6 questionnaire, was marked.)

7 BY MR. HO:

8 Q I will represent to you this was  
9 downloaded from the Census Bureau website as the  
10 1950 census questionnaire. Do you see the middle  
11 of the questionnaire, roughly, it looks like it's  
12 Column Number 13, there's a question about where a  
13 person was born, what state or foreign country was  
14 he born in?

15 A Yes. I see that in Column 13.

16 Q And immediately after that in Column 14,  
17 there's a question, if foreign born, is he  
18 naturalized; is that right?

19 A Yes. That's in Column, appears to be,  
20 14.

21 Q So the naturalization question on the  
22 1950 census questionnaire follows a question about



1 place of birth, right?

2 A It's in the next column. The 1950  
3 questionnaire was filled out by an enumerator, not  
4 by the householder. So the exact order in which  
5 the enumerator filled it out isn't controlled by  
6 the way you see the questions.

7 Q So looking at the 1950 census  
8 questionnaire, we don't know how -- what sequence  
9 an enumerator asked the questions in; is that  
10 right?

11 A Well, we would know from the field  
12 training instructions, but I was not able to  
13 locate them.

14 Q But if you just look at the questionnaire  
15 itself --

16 A I agree, they're sequential.

17 Sorry. I should have let you finish.

18 Q Is it fair to say the questions about  
19 citizenship on the ACS, the 2000 long form and in  
20 the 1950 census questionnaire, are preceded by a  
21 question about place of birth?

22 A Yes.

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1 Q Now, as planned, the question about  
2 citizenship on the 2020 decennial questionnaire,  
3 that's the same citizenship question as  
4 Question Number 8 on the ACS; is that right?

5 A I'm only verifying the question numbers,  
6 because I don't have it memorized.

7 Q Sure. It's on Page 8.

8 A Yes. That's correct.

9 Q At present, there are no plans to add a  
10 place of birth question to the decennial census  
11 questionnaire, right?

12 A That's correct.

13 Q There has been no cognitive testing of  
14 this citizenship question without a question about  
15 place of birth; is that right?

16 MR. EHRLICH: Objection. Form.

17 THE WITNESS: I'm not prepared to answer  
18 whether there has been no cognitive testing of  
19 this question without being preceded by what we  
20 would call a nativity question. In the  
21 experiments and the evaluations that the  
22 Census Bureau has been able to locate, the survey

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1 testing has not been conducted without a nativity  
2 question preceding the citizenship question.

3 BY MR. HO:

4 Q So you're not aware of any testing -- any  
5 cognitive testing of the citizenship question  
6 without a preceding question about nativity; is  
7 that right, Dr. --

8 A I'm not aware of -- sorry. I'm not aware  
9 of any, no.

10 Q Are you aware of any prior census in  
11 which cognitive testing of the full short form  
12 questionnaire had not been conducted before using  
13 that questionnaire for the actual census?

14 A I am not aware of any -- well, let me be  
15 careful.

16 Many censuses were conducted without  
17 cognitive testing, the equivalence of cognitive  
18 testing existed for much of the 20th century. In  
19 preparing for this deposition, I reviewed the  
20 generic answer to the question, how was this  
21 tested, and in some cases, that question elicited  
22 some cognitive testing, for example, the

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1 Current Population Survey, and the  
2 American Community Survey. In other cases,  
3 historical censuses back in the '80s, '70s and  
4 '60s, no one could produce cognitive testing.

5 Q So --

6 A I didn't specifically ask -- I asked, any  
7 testing? And what I got was the sort of standard  
8 protocol testing.

9 Q So you're not aware of any  
10 circumstance -- any previous decennial  
11 census -- excuse me. Let me start that again.  
12 Since there's been cognitive testing of  
13 the decennial short form questionnaire, you're not  
14 aware of any time in which a full short form  
15 questionnaire has been deployed without  
16 cognitively testing that full short form  
17 questionnaire, are you, Dr. Abowd?

18 A I need to answer that question in a more  
19 nuanced form.

20 I am not certain that the full  
21 questionnaire was cognitively tested for the  
22 period in which the question appeared on the long

1 form. I am certain that the questions for the  
2 American Community Survey and the 2010 census were  
3 put through the full battery of the tests.

4 If you would like, during the break, I  
5 will call and ask for cognitive testing of the  
6 censuses prior to the 2010.

7 Q Well, so just stick with the 2010. The  
8 full short form census enumeration questionnaire  
9 was cognitively tested before being deployed for  
10 the actual 2010 census, correct?

11 A That is my understanding. But it may  
12 have been question by question. I will -- I will  
13 actually, during a break, ask a more specific  
14 question about the form of the testing.

15 Q Dr. Abowd, has there been any field  
16 testing of the citizenship question that's going  
17 to be used on the 2020 census without a prefatory  
18 question about nativity?

19 A No.

20 Q And there's been no field testing of the  
21 full 2020 census questionnaire, including the  
22 citizenship question, correct?

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1 A That's correct.

2 Q And before the 2010 census, as far as you  
3 know, there was field testing of the full short  
4 form census questionnaire, right?

5 A Yes.

6 Q At present, there are no plans for field  
7 testing of the full 2020 census questionnaire,  
8 including the citizenship question; is that right?

9 A That's correct.

10 Q Why not?

11 A In May of 2016 the -- Enrique Lamas, the  
12 associate director for demographic programs, who  
13 is performing the nonexclusive functions and  
14 duties of the deputy director -- and I'm going to  
15 call him the acting deputy director from now on --  
16 the acting deputy director asked Victoria Velkoff,  
17 the chief of the American Community Survey Office,  
18 to design a field experiment for the census  
19 questions in the exact ACS form and without a  
20 lead-in nativity question using the experimental  
21 components of the American Community Survey, which  
22 allow us to deploy test instruments without

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1 disrupting the production instrument, but with a  
2 proper experimental design.

3           Tori drafted such an experiment. It  
4 included multiple forms of the citizenship  
5 question; the one that is in the ACS, the shorter  
6 one that's in the Current Population Survey, and  
7 no citizenship question, at all. Designed a  
8 randomized controlled trial of those questions,  
9 controlled to produce sampling errors of either a  
10 half of a percent or one percentage point and  
11 presented the plan to the acting deputy director  
12 and its budget.

13           The acting deputy director and  
14 Ron Jarmin, the deputy director performing the  
15 nonexclusive functions and duties of the director,  
16 and I'm going to call him the acting director from  
17 now on. The acting director and Enrique decided  
18 that the experiment which could not be deployed  
19 until the earliest, November of 2019, and possibly  
20 not until the following February, I believe, was  
21 not going to produce sufficient information to be  
22 worth deploying. In their opinion, and in the

1 opinion of the Census Bureau professionals, the  
2 citizenship question, even without a nativity  
3 lead-in, has been adequately tested.

4 Q I believe you said that it was in May of  
5 2016 --

6 A I said -- I may have said '19, but I  
7 meant May of 2018. It was after the  
8 Secretary -- sorry. Thank you for correcting me.  
9 It was after the Secretary instructed us to add  
10 the question. It was in May of this year.

11 Q Thank you for clarifying.

12 Dr. Abowd, what is the Center For Survey  
13 Measurement within the Census Bureau?

14 A The Center For Survey Measurement is a  
15 group of, primarily, behavioral scientists and  
16 survey methodologists led by Paul Beatty who is  
17 the chief.

18 Q And what does -- I'll call it CSM for  
19 short -- what does CSM do?

20 A CSM does a variety of questionnaire  
21 testing and qualitative research, leading content  
22 recognition questionnaire layout, ISR -- Internet



1 self-response instrument design, focus groups,  
2 related behavioral science research.

3 Q Fair to say that they are involved in  
4 testing Census Bureau questionnaires?

5 A Yes.

6 Q Fair to say that they assess whether or  
7 not a particular questionnaire has been tested  
8 adequately?

9 A They assess survey development at all  
10 stages of the survey lifecycle, including the one  
11 that you referenced.

12 Q And were the professionals in CSM asked  
13 their opinion as to whether there had been  
14 adequate testing of the ACS citizenship question  
15 to add it to the decennial enumeration  
16 questionnaire?

17 A In the course of developing our technical  
18 response to the Department of Justice request, the  
19 first group interviewed by the technical response  
20 team was a group from the Center For Survey  
21 Measurement, and they were asked about the quality  
22 of the citizenship question on the

1 American Community Survey.

2 Q And what did they say?

3 A They said that the question itself had  
4 had cognitive testing, and that it had been  
5 successfully deployed in the field. The last time  
6 that that question form underwent extensive  
7 testing was in 2006 where alternative versions of  
8 it were developed through the full lifecycle  
9 process and field experiment.

10 Q When you say they, who are you referring  
11 to?

12 A I'm not sure. I might have used the  
13 antecedent -- free pronoun a couple of times. If  
14 you read back the record, I'll tell you who I was  
15 talking about.

16 Q I believe you said they said that the  
17 question itself had had cognitive testing, and  
18 that it had been successfully deployed in the  
19 field. Who is they?

20 A Okay. They would have been the group  
21 from the Center For Survey Measurement that the  
22 SWAT team interviewed.

1 Q And who would they be?

2 A I'm -- I'm not sure how many people were  
3 in the room. I'm also not sure everyone in the  
4 room was from the Center For Survey Measurement.  
5 The -- usually, Paul Beatty, the center chief is  
6 in the room when a team is giving input like that.  
7 I can call and find out exactly who was in the  
8 room. I didn't ask.

9 Q Let's stick with Mr. Beatty, did  
10 Mr. Beatty --

11 A I'm not sure he was even in the room. I  
12 just said usually, he's in the room.

13 Q Okay. Fair enough.

14 But let's talk to Mr. Beatty for a  
15 second. Did Mr. Beatty express a view whether the  
16 testing of the ACS citizenship question was  
17 adequate for placing that question on the  
18 decennial enumeration?

19 A I do not know.

20 Q Did anyone among -- at CSM express  
21 concerns that there had been inadequate testing of  
22 the ACS citizenship question for purposes of

1 adding it to the decennial enumeration?

2 A I don't think so. In preparing for this  
3 testimony, I asked all of the people who had been  
4 involved in the -- in the technical work that was  
5 done at the Census Bureau with regard to the  
6 citizenship question, the current environment,  
7 since December of 2017, whether they knew of  
8 research or reservations about the citizenship  
9 question, and I didn't get any recorded.

10 The acting deputy director summarized the  
11 research, and since he was the associate director  
12 for demographic programs and had a long history in  
13 that part of the Census Bureau, we accepted his  
14 summary. And his summary of the search  
15 was -- research was that the citizenship question  
16 had been more than adequately tested on the  
17 American Community Survey.

18 Q When you say more than adequately tested,  
19 did he express a view as to -- never mind.

20 Assuming that the citizenship question is  
21 on the decennial enumeration questionnaire, is it  
22 going to remain a part of the American Community

1 Survey questionnaire?

2 A The acting director has formed an  
3 internal expert panel. I testified about it in my  
4 direct testimony -- my fact testimony. The -- I  
5 may not have given the complete composition of it  
6 at that time, but it's a 13-member expert panel,  
7 charged them with drafting decision documents  
8 about questions like the one you just asked. They  
9 have been given until March 31st of 2019 to -- to  
10 write a draft decision document about the way the  
11 citizenship question will be processed on the 2020  
12 census and the way the Citizenship Voting Age  
13 Population Table by Race and Ethnicity at the  
14 block level will be produced. The rest of their  
15 charter, they have not been given a specific  
16 timeline for.

17 Q So just -- not about the processing of  
18 the CVAP data, but just a question about whether  
19 or not the citizenship question on the ACS will  
20 remain on the questionnaire --

21 A I --

22 Q -- is that one of the questions that

1 they -- this internal expert panel is considering?

2 A I understood your question. And, yes,  
3 that is in their charge. It's not in their charge  
4 specifically, tell us to take the question off the  
5 ACS. It's in their charge specifically to write  
6 standards for how surveys will be conducted if in  
7 the view of the experts producing the data there  
8 are alternative sources for particular questions.  
9 It's not just about administrative record sources  
10 for alternative questions. There are other  
11 alternative sources that we might consider using  
12 in the future. So we haven't made a decision is  
13 the right answer to that.

14 Q What are some reasons why the citizenship  
15 question might be removed from the  
16 American Community Survey questionnaire?

17 A We regularly do content reviews of all of  
18 our periodic surveys and -- I may have just put  
19 the ACS in an improper budget category -- what I  
20 mean by that term, the ones we ask on a repeated  
21 basis -- to assess that the content is still  
22 timely with respect to the well-established and

1 new use cases for those data.

2 Trading off against that is our  
3 obligation to minimize burden on the respondents  
4 to those surveys. So if in the course of testing  
5 and research and content review, we are able to  
6 reduce burden by producing data as good or better  
7 quality by combining multiple sources, we do that.

8 And in the economics area, we have done  
9 that for decades. So the multiple source  
10 production of data is not new but many different  
11 expert panels -- not the ones inside the Bureau,  
12 but outside the Bureau and other statistical  
13 agencies have, as they move into the 21st Century,  
14 they have recognized you have to develop standards  
15 for this. The Federal Committee on Statistical --  
16 FCSM, Federal Committee on Statistical  
17 Methodology, has also been developing standards  
18 for using multiple sources to produce information  
19 products. So this is -- as a part of your normal  
20 content review for the ACS, the question will be  
21 on the table, can we replace any of the survey  
22 questions with alternative sources, and one of

1 those alternative sources might be administrative  
2 record citizenship table.

3 Q So just to be clear, you may remove the  
4 ACS citizenship question from the ACS  
5 questionnaire in order to reduce burden on survey  
6 respondents; is that right?

7 MR. EHRLICH: Objection. Form.

8 THE WITNESS: We may remove the  
9 citizenship question from the American Community  
10 Survey in the future, yes.

11 BY MR. HO:

12 Q If you remove the citizenship question  
13 from the American Community Survey questionnaire,  
14 would that mean that the only available  
15 citizenship data for redistricting purposes at  
16 that point would be from the decennial  
17 enumeration?

18 MR. EHRLICH: Objection. Form.

19 THE WITNESS: If we remove a question --  
20 that was a generic -- deliberately generic -- a  
21 question from the American Community Survey, there  
22 could be multiple reasons. One reason might be



1 that there is no longer a valid use case for  
2 producing an information product based on the  
3 answer to that question.

4 Another reason might be because there's  
5 an alternative way of developing as good or better  
6 quality information product without asking the  
7 question on the survey. I anticipate -- but this  
8 is a predetermining decision-making process that  
9 hasn't happened -- that there would be a  
10 continuing valid-use case for citizenship data.  
11 So even if we took it off the American Community  
12 Survey, we would not stop producing statistical  
13 information products that contain citizenship  
14 data.

15 BY MR. HO:

16 Q Let's talk about some of those  
17 information products. Now, the Census Bureau  
18 produces various data files for redistricting  
19 purposes, right, Dr. Abowd?

20 A Yes.

21 Q And one of those redistricting data  
22 products by the Census Bureau is the P.L. 94-171

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1 data file, right?

2 A Yes.

3 Q The Department of Justice uses the  
4 P.L. 94-171 data file; is that your understanding?

5 A Yes.

6 Q And the P.L. 94-171 data file is also  
7 available to the public, right?

8 A Yes.

9 Q The P.L. 94-171 data file has information  
10 in it concerning the population and  
11 characteristics of people at various levels of  
12 census geography, including census blocks, right?

13 A Correct.

14 Q And the PL 94-171 data file is based on  
15 responses to the decennial enumeration, correct?

16 A Correct.

17 Q The P.L. 94-171 data file is considered  
18 reliable, correct?

19 MR. EHRLICH: Objection. Form.

20 THE WITNESS: The P.L. 94-171  
21 redistricting data are produced under the law of  
22 the same name by negotiation between the

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1 Census Bureau redistricting office and 51 state  
2 and the Washington, D.C. redistricting offices to  
3 meet the requirements of redistricting legislative  
4 districts in the states. The Census Bureau  
5 provides data to the states and District of  
6 Columbia in the support of redrawing every  
7 legislative district in the country.

8 BY MR. HO:

9 Q Dr. Abowd, the Census Bureau doesn't  
10 consider the P.L. 94-171 data file unreliable,  
11 does it?

12 A No. I was trying to state the use case  
13 for which reliable is defined, but I forgot to  
14 finish my answer.

15 We believe that the P.L. 94-171 data are  
16 reliable for redistricting and reliable for their  
17 Department of Justice Voting Rights Act  
18 enforcement uses.

19 Q The P.L.94-171 data file has never had  
20 citizenship data in it; is that correct?

21 A That is correct.

22 Q Now, another redistricting product

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1 produced by the Census Bureau is the special  
2 tabulation of CVAP and other ACS data; is that  
3 right?

4 A So that's not technically right.

5 Q Okay.

6 A The redistricting office initially  
7 request -- initially assisted the  
8 Department of Justice in the design and production  
9 of a special tabulation of Citizen Voting Age  
10 Population by Race and Ethnicity and at the block  
11 group level. I'm just going to say CVAP from now  
12 on.

13 CVAP, because of a use case that the  
14 Department of Justice had, it was subsequently put  
15 into regular production, so it's produced  
16 regularly. And its timing is now such that it can  
17 be used in conjunction with the P.L. 94-171 data,  
18 but no statute obligates the production of CVAP  
19 and no statute obligates the negotiation with part  
20 of government on to its form and content.

21 Q That special tabulation of CVAP data  
22 is available to the public, right, Dr. Abowd?

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1           A    So I just corrected your word of special  
2   tabulation.   It's a regular tabulation now.

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3           Q    Sorry.   Thank you.

4           A    And yes.   It and all tabulations released  
5   for any purpose are released to everyone.

6           Q    The tabulation of CVAP data, it's  
7   considered reliable by the Census Bureau, right?

8           MR. EHRLICH:   Objection.   Form.

9           THE WITNESS:   The Census Bureau -- the  
10   CVAP table, as produced from the American  
11   Community Survey, is tabulated at the block group  
12   level with margins of error.   And so it is  
13   incumbent upon the user of the CVAP table to  
14   understand the limitations of data that are  
15   produced with margins of error and to use them in  
16   a manner that they're fit for.

17   BY MR. HO:

18           Q    The estimates and margins of error in the  
19   tabulation of CVAP data produced by the  
20   Census Bureau are considered accurate by the  
21   Census Bureau, right, Dr. Abowd?

22           MR. EHRLICH:   Objection.   Form.

1 THE WITNESS: The estimates in the CVAP  
2 table are considered correct by the Census Bureau.  
3 Meaning, that they were processed from the  
4 American Community Survey according to a survey  
5 design that was properly executed, and the steps  
6 that were taken in the post processing of those  
7 results are also according to the survey design.  
8 So that when they are estimated, that is the  
9 proper design estimate, and when this margin of  
10 error is released, that is the number that we  
11 believe is an appropriate indication of the  
12 90 percent confidence interval.

13 BY MR. HO:

14 Q Now, the data in that tabulation, that's  
15 based on five-year pooled ACS data; is that  
16 correct?

17 A The CVAP is produced from what we call  
18 the five-year ACS data, which is a rolling  
19 five-year window on the American Community Survey.

20 Q The tabulation of CVAP data is not based  
21 on a single year of ACS respondents, correct?

22 A That's correct.

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1 Q Why is the tabulation based on five-year  
2 ACS pooled estimates instead of single-year  
3 estimates?

4 A In the design of the American Community  
5 Survey tabulations that are produced using a  
6 single year of data, we only believe sufficiently  
7 reliable for communities that are at least 65,000  
8 population.

9 Q Now, unlike the P.L. 94-171 file, the  
10 tabulation of CVAP data obviously includes  
11 citizenship information, right, Dr. Abowd?

12 A Yes.

13 Q Now, prior to the December 2017 letter  
14 from Arthur Gary at the Department of Justice, had  
15 you ever heard any suggestion that the citizenship  
16 data contained in the tabulation of CVAP was  
17 insufficient for the purposes of DOJ's  
18 Voting Rights Act enforcement?

19 A From the Department of Justice, no.

20 Q Had you heard that the -- let me start  
21 again.

22 Prior to the 2017 Gary letter, had you

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1 ever heard from anyone, other than the  
2 Department of Justice, that the tabulation of CVAP  
3 data was insufficient for Voting Rights Act  
4 enforcement purposes?

5 A I had not heard that was insufficient. I  
6 had heard that it was difficult to use. There's a  
7 nuanced difference between them, but that's what I  
8 had heard.

9 Q And who had you heard that it was  
10 difficult to use from?

11 A I believe I explained this in my fact  
12 testimony, but I'll -- I will do it again.

13 Independent of the question about whether  
14 to put a citizenship question on the 2020 census,  
15 one of the areas at the Census Bureau that I was  
16 asked to modernize was the disclosure avoidance  
17 system that we use. And that work began in 2016  
18 when I arrived as the chief scientist. The use  
19 case for P.L. 94-171 and the use case for CVAP are  
20 intimately related, because of the requirement  
21 that you be able to build legislative districts  
22 that meet the one-person, one-vote requirement and



1 satisfy Section 2 scrutiny of the Voting Rights  
2 Act from the smallest granule level of geography  
3 that will allow you to get the one-person,  
4 one-vote part right. In -- once you're done with  
5 that, then you have to demonstrate, as well, that  
6 there's an adequate number of eligible voters in  
7 that district to continue to meet your Section 2  
8 scrutiny.

9 So experts that I interviewed, when we  
10 were talking about the disclosure modernization  
11 for the P.L. 94 said it's already extremely hard  
12 to combine the P.L. 94-171 data and the CVAP data,  
13 because you have to model down the block group  
14 level data to the block level. And once you've  
15 done that, controlling the margin of error in your  
16 resulting districts is problematic and a lot of  
17 the alternative ways of doing it come from  
18 alternative ways of modeling that process.

19 So I was trying to learn -- in my  
20 official capacity, I was trying to learn what the  
21 use case was for the P.L. 94 when the user  
22 volunteered, but one of the problems that they

1 encountered was the combining of.

2 And I asked the redistricting office if  
3 it was a politically-loaded question to say  
4 improving the way that the citizen data could be  
5 combined with P.L. 94 or was that something that  
6 would have bipartisan agreement, and he didn't  
7 answer right away. It was James Whitehorne, the  
8 chief of the redistricting office. He did his own  
9 independent research. And he came back and said  
10 it's not political to say that improving the way  
11 that is citizen -- the CVAP and P.L. 94 would be  
12 an improvement.

13 Q When was that conversation with  
14 Mr. Whitehorne?

15 A I don't remember exactly. It was in 2017  
16 at some point.

17 Q Before receipt of the Gary letter?

18 A Yes. All of this was before receipt.

19 Q You mentioned talking to experts who said  
20 it was difficult to combine the P.L. data file  
21 with the CVAP. Who are those experts?

22 A I wasn't able to specifically recall all

1 of them. I recall talking to Professor Gary King  
2 at Harvard. Professor Mike -- I believe his last  
3 name is McMahn, at the University of Florida.

4 Q Could it be Mike McDonald at Florida?

5 A That's it.

6 And the chief of the bipartisan  
7 commission at -- in California. I remember her  
8 title but not her name. And I don't have notes.

9 And I may have talked to some others, but  
10 it was those three primarily, especially the  
11 California one. She was able to give me very  
12 detailed use cases. Not actual code, but  
13 precisely how they combined various things.

14 Q Let's talk about you mentioned disclosure  
15 avoidance. I want to ask you a couple questions  
16 about that.

17 The citizenship data in the CVAP  
18 tabulation, I believe you said before, those are  
19 estimates at the block group level, correct?

20 A That's correct. Technically, so are the  
21 P.L. 94-171, but they're official estimates.

22 Q Now -- but the difference is, the P.L. 94

1 data, that data doesn't have error margins  
2 associated with it in the way that the CVAP  
3 tabulation, which is based on a survey sample does  
4 have error margins, correct?

5 A The P.L. 94-171 data are not sample  
6 based. They do have margins of error. We don't  
7 discuss it very much, but they're not -- they're  
8 not because of the sample. They're because of the  
9 statistical methods that intervene in converting  
10 the responses to tabular data, including  
11 disclosure avoidance. The CVAP table is based on  
12 a multistage probability sample, and so it has a  
13 design that implies that it has a sampling error.  
14 And it is the sampling error that we tabulate in  
15 our margins of error.

16 Q Okay. So just to be clear about the  
17 different data forms. The P.L. data, that has  
18 some errors associated with it, right?

19 A Yes.

20 Q It doesn't have the kind of standard  
21 error associated with an estimate based on a  
22 statistical sample, right?

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1 A It doesn't have sampling error.

2 Q Thank you.

3 The tabulation of CVAP data does have  
4 sampling error associated with it, correct?

5 A Yes.

6 Q So when you publish the CVAP tabulation,  
7 you're not publishing any particular person's  
8 responses to the ACS citizenship question in a way  
9 that would enable you to identify that person's  
10 responses, correct?

11 A If we did not apply disclosure avoidance  
12 prior to the tabulation, then the CVAP table, as  
13 well as the P.L. 94 tables, would be subject to  
14 reidentification risks.

15 Q So what are the disclosure avoidance  
16 steps that are used for the tabulation of CVAP  
17 data?

18 A The CVAP data are tabulated from the  
19 production of the American Community Survey Office  
20 tabulation system. The exact specification for  
21 the disclosure avoidance that has been applied to  
22 them is confidential and I can't give you those

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1 specifications. What we say in our technical  
2 documents is that we apply household-level  
3 swapping and some synthetic data noise infusion.

4 Q Let's talk about those two things.  
5 What's household-level swapping?

6 A Household-level swapping means that the  
7 certain variables on the household record, not the  
8 person record, certain variables on the household  
9 record are matched to variables on a household  
10 record in a different geographic area. And if the  
11 household is selected for swapping, and when the  
12 match is found, essentially all the values are  
13 swapped, except the address ID. So it looks as if  
14 the data from a different address lived at the  
15 address of the original and vice versa.

16 Q So when you're building the CVAP  
17 tabulation, in some cases, it's based on data  
18 that's been swapped between two households where  
19 the ACS citizenship response for one household has  
20 been swapped with another; is that right?

21 A I am only allowed to tell you the  
22 variables that are used in the swap that are in

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1 public documents. And I told you what was in the

2 public documents.

3 Q Okay.

4 A So the swap controls for family size, for  
5 the number of persons in -- not family size. That  
6 was not a correct technical term.

7 Q Household?

8 A Household size. Thank you.

9 And the number of members of the  
10 household above voting age -- voting age or above.

11 Q When households are swapped, at what  
12 level of geography are they swapped?

13 A I'm only allowed to say that the search  
14 is over nearby geographic regions.

15 Q So you're not swapping someone from Maine  
16 with someone in Arizona?

17 A I'm also allowed to say that the swap  
18 never crosses state lines.

19 Q Does the swap ever cross county lines?

20 A If you can produce a technical document  
21 that says it does or doesn't, I can confirm it. I  
22 can't remember ever reading that, one way or

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1 another.

2 Q And can you say, one way or another,  
3 whether or not the swap ever occurs across census  
4 block group lines?

5 A I have read a lot of the public  
6 documents. I have also read a lot of the  
7 confidential documents. I do not recall any  
8 public document explicitly saying anything other  
9 than we don't swap across state boundaries.

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10 Q And do -- so that would -- okay.  
11 Thank you.

12 Well, does swapping ever occur between  
13 census blocks?

14 MR. EHRLICH: Objection. Form.

15 THE WITNESS: Of course swapping occurs  
16 across census blocks, because there would be no  
17 point in it otherwise.

18 BY MR. HO:

19 Q You mentioned synthetic data noise  
20 infusion for disclosure avoidance. Can you  
21 describe what you mean by that?

22 A There are two methods of doing that. The



1 one that is used in the American Community Survey  
2 is to develop a model for when a particular record  
3 or item on a record is sensitive. The models are  
4 more precise, but, again, their parameters are not  
5 confidential. Basically, you think of extreme  
6 values as sensitive.

7 And then the statistical model replaces  
8 the sensitive value with a value that's sampled  
9 from the model and from the error distribution of  
10 the model.

11 Q The plan after collecting the citizenship  
12 responses from the enumeration is to deliver  
13 block-level citizenship data to the  
14 Department of Justice for the purposes of VRA  
15 enforcement, right, Dr. Abowd?

16 A Yes.

17 Q The block-level citizenship data that the  
18 Census Bureau is going to deliver to the  
19 Department of Justice, will that be based  
20 primarily to the citizenship question on the  
21 decennial enumeration questionnaire?

22 A The internal expert panel has been

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1 charged explicitly with determining both the  
2 processing of the answers to the citizenship  
3 question in the internal files and the formulation  
4 for the CVAP table at the block level.

5 Q So as of right now, a decision has not  
6 been made yet as to whether or not the CVAP  
7 table -- table that is produced to the  
8 Department of Justice is going to be based  
9 primarily on responses to the citizenship question  
10 on the decennial enumeration or on a different  
11 source; is that right, Dr. Abowd?

12 A With one correction. We are not  
13 producing a CVAP for the Department of Justice.  
14 We are producing a CVAP table at the block level  
15 as a public use product.

16 Q But otherwise, the answer to my question  
17 is yes?

18 A We have not made a decision on the way in  
19 which we will aggregate the data to the block  
20 level.

21 Q Other than responses to the citizenship  
22 question on the decennial questionnaire, what

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1 other data sources might you use in the production  
2 of the block-level CVAP table?

3 A We have said that we will use  
4 the -- what's called the census NUMIDENT data. In  
5 addition, we are negotiating with the  
6 U.S. CIS -- Customs and Immigration Service, did I  
7 expand it right -- U.S. CIS and with the  
8 State Department to acquire additional citizenship  
9 data and data on visas that have been issued to  
10 legal visitors to the United States.

11 Q Is it fair to say that it has not yet  
12 been decided precisely how the block-level CVAP  
13 table will be assembled?

14 A That's correct.

15 Q Has it been decided whether or not the  
16 block-level CVAP data will be included in the  
17 P.L. 94-171 data file?

18 A It has not.

19 Q Let me show you a document. We'll mark  
20 this as Exhibit 4.

21 (Plaintiffs' Exhibit 4, Federal Register  
22 notice, was marked.)

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1 BY MR. HO:

2 Q This is a Federal Register notice. This  
3 is a Federal Register notice from the  
4 Department of Commerce on proposed information  
5 collection and a comment request and the 2020  
6 census.

7 Have you seen this document before?

8 A Yes, I have.

9 Q I want to turn to the second page of the  
10 document -- oh, sorry, just for the record, it's  
11 dated June 8, 2018, and the first page on it is  
12 26643.

13 I'd like to turn to the second page of  
14 the document, that's Page 26644. And the middle  
15 column, the second paragraph, about halfway down  
16 there is a sentence that starts with "If  
17 stakeholders."

18 Do you see that?

19 A Yes.

20 Q The sentence reads, "If stakeholders such  
21 as the National Conference of State Legislatures  
22 elect to receive tabulations of citizenship data,

1 the Census Bureau will make/require" -- I think  
2 that's a typo -- "a change" -- "a design change to  
3 include citizenship as part of the Public Law  
4 94-171 redistricting data file."

5 So I want to ask you a question about  
6 that sentence. If stakeholders do elect to  
7 receive citizenship data, what kind of design  
8 change can be made to the P.L. 94-171 file to  
9 include citizenship information at the census  
10 block level?

11 A So I was, of course, aware of that  
12 sentence. The way that redistricting office  
13 interacts with the National Conference of  
14 State Legislatures, as is described in the  
15 statute, as I understand it, is to attempt to meet  
16 their data needs, and their data needs are  
17 specifically what's required to redraw legislative  
18 districts. So that's why the redistricting office  
19 worked with the American Community Survey office  
20 to get the CVAP tabulation to be released in a  
21 timely manner with respect to redistricting in the  
22 first place.

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1 My understanding -- careful. I was told  
2 very carefully -- the Census Bureau's  
3 understanding is that if the partners, the  
4 National Conference of State Legislatures, wish to  
5 receive the CVAP table at the block level,  
6 simultaneous with the P.L. 94-171 tabulation --  
7 that we announced the design of a previous  
8 Federal Register notice, but I don't know the  
9 notice number -- that we would facilitate that.

10 Since the tabulations are all done using  
11 census geography, there are a number of relatively  
12 straightforward ways to facilitate simultaneous  
13 release and use of a CVAP block-level table and  
14 the P.L. 94-171 table that we've prespecified in a  
15 previous Federal Register notice.

16 Q Have there been any conversations with  
17 the Department of Justice about the format in  
18 which the Census Bureau will deliver block-level  
19 citizenship data?

20 A I believe the answer to that question is  
21 no. There have been meetings with the  
22 Department of Justice, and they have been about

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1 the form of the CVAP and P.L. 94 data, but I don't  
2 believe we've had any specific discussion about  
3 the format. I believe that we presume that our  
4 data production systems, when we say we're going  
5 to deliver data at the block level, we'll deliver  
6 data at the block level in a way that the  
7 receiving users already understand how to use. So  
8 we're planning to disseminate the products in  
9 CEDSCI system at the block level and that's the --  
10 that is the distribution medium that we would be  
11 working towards using. No one has mentioned that  
12 that's problematic.

13 Q I'm sorry. I think I probably asked the  
14 wrong question.

15 A That's possible.

16 Q So --

17 A I hope I answered the right one.

18 Q We talked earlier about how the  
19 Census Bureau has not yet determined how it's  
20 going to assemble the CVAP tables, whether it will  
21 be based on the census enumeration questionnaire  
22 responses, some other data source, what mix of

1 those things.

2 Do you remember that, Dr. Abowd?

3 A Yes.

4 Q Have there been conversations with the  
5 Department of Justice about how the  
6 Department -- sorry -- how the Census Bureau is  
7 going to assemble that block-level CVAP data, that  
8 is, whether it will be based on the enumeration  
9 questionnaire responses or the administrative data  
10 or something else?

11 A There have been conversations with the  
12 voting rights division or branch -- I'm not sure  
13 which -- the voting rights section of the  
14 Department of Justice about the consequences of  
15 the disclosure modernization on the tabular data.  
16 And so we were trying to educate them on that.  
17 That doesn't affect how the census responses and  
18 the administrative data might be combined to  
19 produce those tabular data. There's a variety of  
20 ways in which they can be combined that are going  
21 to result in tabular data with the same  
22 statistical properties.

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1 Q So just to be clear, there have been no  
2 conversations with the Department of Justice about  
3 how the different forms of citizenship data are  
4 going to be combined for purposes of assembling  
5 the CVAP table?

6 A None that I'm aware of, and during a  
7 break, I'll ask to make sure there aren't some  
8 that I wasn't aware of.

9 Q Now, you did mention some conversations  
10 between the Census Bureau and the voting section  
11 at DOJ. Who were those conversations between,  
12 both on the DOJ and the census side?

13 A So the meeting was arranged by  
14 James Whitehorne, who is the chief of the  
15 redistricting office. On the Census Bureau side,  
16 a number of experts were present, primarily  
17 disclosure avoidance experts, but there were also  
18 subject matter experts present. On the DOJ side,  
19 the chief of the section was present and staff  
20 familiar with the Voting Rights Act.

21 Q Was Mr. Whitehorne present at that  
22 meeting?

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1           A     Yes, he was.

2           Q     When you say the chief of the voting  
3 section, is that Chris Herron?

4           A     I'm going to have to check a meeting  
5 invitation list. I don't remember that person's  
6 name.

7           Q     Do you know the names of any of the DOJ  
8 personnel who were present at that meeting?

9           A     James Whitehorne knew the names of all of  
10 them, and I got their cards.

11          Q     Okay. You were present at the meeting?

12          A     Yes. I was present at the meeting.

13 Sorry.

14          Q     When did that meeting take place,  
15 roughly?

16          A     Within the last three months, after --  
17 after the Secretary's announcement and before  
18 people started going on summer holidays.

19          Q     Were there any other meetings between  
20 Census Bureau personnel and the  
21 Department of Justice about the issues that we've  
22 been talking about?

1           A     I believe the answer to that is no,  
2     because James has been inviting me to those, but I  
3     will also check to make sure.

4           Q     Roughly, how long did the meeting last?

5           A     About an hour.

6           Q     Where was it?

7           A     DOJ.

8           Q     Just backing up for a moment, a census  
9     block is the lowest level of census geographic,  
10    correct?

11          A     Correct. Tabular geographic.

12          Q     Census block could have as few as ten  
13    people in it, right, Dr. Abowd?

14          A     A census block can have no people in it.

15          Q     And a census block could have one person  
16    in it, right?

17          A     That's also correct.

18          Q     I want to show you a document -- let's  
19    mark this as Exhibit 5.

20                 (Plaintiffs' Exhibit 5, Map, was marked.)

21    BY MR. HO:

22          Q     I will represent to you this is a map

1 derived from census data on the Census website.  
2 It was produced by adjoining tiger files with the  
3 P.L. 94 data file after the 2010 census, and it's  
4 a map of an area in Fort Myers, Florida.

5 So you recognize the rectangles and other  
6 shapes on this map as census blocks, right,  
7 Dr. Abowd?

8 A Well, I can't independently verify that,  
9 but certainly looks like it's right.

10 Q And some of these census blocks have no  
11 people in them, some of them have just a single  
12 person on it, right?

13 A Are you asking me to say that the number  
14 that's sitting in the middle there is a population  
15 count?

16 Q I'll represent to you that that's -- that  
17 the numbers are population counts, and assuming  
18 that that's correct, some of the census blocks  
19 represented on this map have only one person on  
20 them, right, Dr. Abowd?

21 A Yes. I found a singleton.

22 Q Let's talk about that singleton. Now,

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1 you'd agree with me, Dr. Abowd, that if you  
2 publish citizenship information at the block level  
3 based on the responses to the decennial  
4 enumeration solely -- so ignore the administrative  
5 data for a second -- then any singleton, any  
6 person who is the one individual on a census  
7 block, you would be publicizing that person's  
8 response to the citizenship question, correct?

9 A No.

10 MR. EHRLICH: Objection. Form.

11 THE WITNESS: No.

12 BY MR. HO:

13 Q Why not?

14 A Hasn't been correct since 1990.

15 Q Please explain to me why that's the case.

16 A Even before we considered the citizenship  
17 variable, that one person, that household that has  
18 only one person in it, had other characteristics,  
19 and the goal of our disclosure avoidance system  
20 has been to inhibit a user's ability to say that  
21 the person identified as that one count here has  
22 these characteristics.

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1 In 2000 and 2010, that was accomplished  
2 by swapping, primarily. In 2020, that's going to  
3 be accomplished by what's called differential  
4 privacy. They amount to similar goals. One is a  
5 more hardened technique.

6 Q Uh-huh.

7 A But, basically, if you do it properly,  
8 then everything is an estimate and nothing is an  
9 exact tabulation of what happened there.

10 Q Okay. So for these singletons, when you  
11 publish block-level CVAP data, a census block with  
12 one person on it and you publish data that shows  
13 whether or not that person is a citizen, you're  
14 telling me that's not going to disclose that  
15 person's actual citizen status?

16 A It's not even going to be that person's  
17 actual citizenship value for any person.

18 Q So the -- just to be clear -- I just want  
19 to be clear about this. The CVAP block-level data  
20 that gets produced by the Census Bureau, in some  
21 cases, the block-level citizenship values that are  
22 reported on that table are not going to be the

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1 actual citizen statuses of the person or persons  
2 on that census block; is that right?

3 A No, not in some cases. In all cases.

4 Q Okay.

5 A There won't be a single block in which  
6 the citizenship variables or the race and  
7 ethnicity variables are the values reported by the  
8 people who live there.

9 Q So I'm new to this, so I just -- forgive  
10 me.

11 A You're not the only one.

12 Q I want to come back to that.

13 But just explain this to me like a fifth  
14 grader, okay? When you publish -- after the 2020  
15 enumeration, when you publish block-level  
16 citizenship data and you say X number of people on  
17 a particular census block, whether it's one out of  
18 one people, eight of ten people, whatever the  
19 number is, are citizens, according to the table,  
20 that table will not accurately reflect the  
21 citizenship status of the people enumerated in  
22 those citizen blocks; is that right, Dr. Abowd?

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1           A    No.   But I'm actually going to treat you  
2   like a college-aged person and not a fifth grader.

3           Q    Let me just get a clarity on what the no  
4   was, no.   No, I was not right or no --

5           A    That's correct.   No, you were not right.

6           Q    Please explain to me.

7           A    The use case for block-level data is not  
8   that when I take a microscope to the census and I  
9   look at a block, the answers I get there are right  
10   for that block.   That would be enormously  
11   disclosive and would be almost impossible to  
12   prevent reidentification of the confidential Title  
13   13 data, and we haven't done that -- we didn't do  
14   it in 2010.   We didn't do it in 2000.

15               What has happened between 2010 and 2020  
16   is that we now actually know how to produce  
17   block-level data that are suitable for their use  
18   without having to put the exact -- what you call  
19   accurate, but I think you really mean exact  
20   tabulation in that block.   It's too dangerous in  
21   terms of the confidentiality of the underlying  
22   records to put the exact tabulation there.   So you

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1 have to introduce randomness, and what -- we  
2 introduced that randomness through a swapping  
3 system in 2010 and in 2000. We're replacing that  
4 swapping system with a system that introduces the  
5 randomness in a much more controlled way for 2020.  
6 Such that, as you take those blocks -- even though  
7 the block number is going to be noisy and we're  
8 going to tell you how noisy it is -- when you add  
9 them up to voting districts, the more people that  
10 are in that voting district, the more accurate  
11 estimate you get of all of the things you're  
12 trying to tabulate. Not just citizenship,  
13 race/ethnicity.

14 Q Just to clarify my understanding again,  
15 my question wasn't about fitness of use. My  
16 question was just about exact measurement.

17 And is it correct that after you received  
18 the decennial enumeration questionnaire responses  
19 and you tabulate CVAP data at the block level,  
20 that the numbers that you produce for CVAP at  
21 particular census blocks will not reflect the  
22 exact actual values of the number of citizen of

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1 voting age at each of those census blocks?

2 A Could you read his question back to me?

3 (Thereupon, the reporter read the record

4 as requested.)

5 THE WITNESS: As read to me, that

6 statement is correct.

7 BY MR. HO:

8 Q Another way to put it is, after you

9 tabulate the CVAP data at the block level, those

10 CVAP numbers at the block level will have error

11 margins associated with them, right, Dr. Abowd?

12 A That's correct.

13 Q Now, in your previous deposition, I  
14 remember reading that you discussed that there is  
15 sometimes disagreement between a person's  
16 citizenship status as reflected in the NUMIDENT  
17 data and the person's response to the citizenship  
18 question on the ACS; is that right?

19 A That's correct.

20 Q I want to show you a document. We'll  
21 mark this as Exhibit 6.

22 (Plaintiffs' Exhibit 6, Email thread, was

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1 marked.)

2 BY MR. HO:

3 Q This is an email thread on which you  
4 participated. Top email on the thread is from  
5 J. David Brown to a number of individuals,  
6 including you, dated January 3, 2018.

7 Do you see that?

8 A I see the header of the email, yes.

9 Q And this is an email that discusses,  
10 among other things, the issue of disagreement  
11 between the ACS responses and the NUMIDENT data  
12 with respect to citizenship status.

13 Does that look right to you?

14 A Give me a second. I'm refreshing my  
15 memory.

16 Q Sure.

17 A Yes. That's what the email says.

18 Q Mr. Brown, in his email to you, attaches  
19 a paper -- if you look at attachments -- I don't  
20 have the actual paper here -- but the attachments  
21 line at the top of the email, Dr. Abowd.

22 A Okay.

1 Q Let me start that question again.

2 Mr. Brown apparently attached an email to  
3 you from -- sorry -- apparently attached a  
4 document to you, a paper by Van Hook and Bachmeier  
5 from 2013 on the issue of disagreement between ACS  
6 responses and the NUMIDENT data with respect to  
7 citizenship status, correct?

8 MR. EHRLICH: Objection to form.

9 THE WITNESS: David Brown attached a  
10 paper about aggregate-level comparisons of the  
11 American Community Survey citizenship data with  
12 aggregate summaries from other sources.

13 BY MR. HO:

14 Q That paper was written by two people,  
15 Van Hook and Bachmeier -- B-A-C-H-M-E-I-E-R is  
16 spelled -- correct?

17 A I don't have the paper in front of me.  
18 There may have been other authors, but as far as I  
19 know, that's correct.

20 Q Who are Van Hook and Bachmeier, do you  
21 know?

22 A I do not know.

1 Q Do you know anything about their  
2 reputation as political scientists or -- social  
3 scientists? I'm sorry.

4 A I remember looking at the article and  
5 noting where it was published, but I did not look  
6 at the research activities of the authors.

7 Q Let me show you another document. We'll  
8 mark this as Exhibit -- this is going to get a  
9 little confusing now. I'm going to mark this as  
10 Exhibit 7. This was Exhibit 6 in your previous  
11 deposition. This was your January 19, 2018 memo.

12 (Plaintiffs' Exhibit 7, January 19, 2018  
13 memo, was admitted into evidence.)

14 THE WITNESS: Yes, it is.

15 BY MR. HO:

16 Q Okay. I want to ask you about Page 7 of  
17 the document, which is AR1282. You know, I'm  
18 sorry, I think I have the wrong page number here.

19 It's Page 12 -- AR1283. It should be the  
20 second paragraph after the Header C1, quality of  
21 administrative record versus self-report  
22 citizenship status.

1           A     The paragraph that begins "For all of  
2     these analyses"?

3           Q     Yes.

4           A     Okay.

5           Q     Now, the second sentence here reads, "The  
6     NUMIDENT data contained information on every  
7     person who has ever been issued a Social Security  
8     number or an individual taxpayer identification  
9     number. Since 1972, SSA has required proof of  
10    citizenship or legal resident alien status from  
11    applicants. We use this verified citizenship  
12    status as our administrative citizenship  
13    variable."

14           I want to ask you about what you wrote  
15    there. You described citizenship status in the  
16    NUMIDENT data as verified, right, Dr. Abowd?

17           A     Yes.

18           Q     And you described citizenship status as  
19    reported in the NUMIDENT as verified, because  
20    everyone who obtains an SSN or an ITIN has had to  
21    show a document concerning their citizenship or  
22    legal noncitizenship status, correct?

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1           A    Correct.

2           Q    So if someone shows up in the NUMIDENT as  
3   a noncitizen, just to put this in plain language,  
4   that's because the Social Security Administration  
5   records reflect that a document has been shown  
6   identifying that person as a noncitizen, right?

7           MR. EHRLICH:  Objection to form.

8           THE WITNESS:  No.  It's the citizenship  
9   status that's been documented or if you add an  
10  ITN, the eligibility for an ITIN.

11  BY MR. HO:

12          Q    And the eligibility for an ITIN, if that  
13   record in the NUMIDENT indicates that a person is  
14   a noncitizen, it's because they've submitted a  
15   document that indicates that they're a noncitizen,  
16   right?

17          A    Correct.

18          Q    Now, in your view, if someone is  
19   identified as a noncitizen in the NUMIDENT, that  
20   reflects that person's current noncitizenship  
21   status except for where there's a lag time between  
22   when a noncitizen naturalizes and when the SSA

1 updates the person's record to reflect that change  
2 in status, correct?

3 A Approximately correct. Not everyone is  
4 obligated to notify SSA of a change in their  
5 status. So the things you said, plus the  
6 possibility that it never gets updated.

7 Q Generally speaking, you would agree that  
8 if someone is denoted in the NUMIDENT as a  
9 noncitizen, that that person is likely to be a  
10 noncitizen, subject to a few exceptions?

11 A I won't agree with the last statement.  
12 Subject to a few exceptions, we would intend to  
13 quantify that, but subject to the exceptions in  
14 whatever quantity they are.

15 Q Generally speaking, if someone is -- let  
16 me just try this again.

17 Generally speaking, if someone is  
18 identified in the NUMIDENT as a noncitizen, you  
19 think it's reasonable to conclude that that person  
20 is likely a noncitizen at present, correct,  
21 Dr. Abowd?

22 A If the person is actually coded as a



1 noncitizen, then I believe it is reasonable that  
2 they were issued an SSN with SSA believing that  
3 they were not a citizen. If it's missing, that's  
4 a different matter.

5 Q Now, if someone is identified through ACS  
6 questionnaire as a noncitizen, that's based  
7 exclusively on a survey self-response that is not  
8 verified by an actual document regarding the  
9 person's legal status, right?

10 A In the case of the respondent, that's  
11 correct. In the case of the other members of the  
12 household, it's based on the information provided  
13 by the respondent about those other members of the  
14 household.

15 Q So for anyone on the ACS who is  
16 designated as a noncitizen, it's based on a survey  
17 response, not an actual document about the  
18 person's noncitizen status, correct?

19 A That's correct.

20 Q Let me show you another document. We can  
21 mark this as Exhibit 8. It's another email thread  
22 you're on. The top email is from Paul Beatty.

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1 (Plaintiffs' Exhibit 8, Email, was  
2 marked.)

3 BY MR. HO:

4 Q It is from Paul Beatty to you, dated  
5 January 2, 2018, and the Bates number of the first  
6 page of this thread is AR6629.

7 Now, the third email in the chain is an  
8 email that you write to -- it's on the first page,  
9 Dr. Abowd. It on an email that you write to  
10 Mr. Beatty and John Elting --

11 A Elting.

12 Q Elting, E-L-T-I-N-G-E [sic] -- dated  
13 January 2, 2018, 9:35 a.m.

14 Do you see that email?

15 A Yes, I do.

16 Q Okay. You wrote, "I spent the entire  
17 week of December 18 through 22 working on the  
18 response to this for Ron. He sent it to DOJ on  
19 Friday afternoon, December 22. We proposed adding  
20 citizenship to the P.L. 94-171 to the  
21 administrative records, not a new question on the  
22 2020 census. This proposal had the backing of the

1     redistricting office."

2             You wrote that, right?

3             A     Yes.

4             Q     And the redistricting office is the  
5     redistricting office at the Census Bureau run by  
6     James Whitehorne, right?

7             A     Yes.

8             Q     Now, when you -- what do you mean when  
9     you say that the option of using administrative  
10    records to generate citizenship information for  
11    the P.L. 94 file had the backing of the  
12    redistricting?

13            A     Okay. I was writing an email and I  
14    didn't take my assistant director's advice as  
15    seriously as I should have, to reread every  
16    sentence before you click send. I meant that I  
17    had discussed it with James Whitehorne. I meant  
18    that we would produce a CVAP table in support of  
19    P.L. 94-171.

20            Q     Okay. Fair enough.

21                 So you're referring to, in this email,  
22    the production of a CVAP table with block-level

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1 CVAP data, right?

2 A Yes.

3 Q Okay. And when you say that that  
4 proposal -- the proposal to generate that table  
5 using administrative records had the backing of  
6 the redistricting office led by Mr. Whitehorne,  
7 what did you mean by that?

8 A It meant that I had previously discussed  
9 with him whether this was a -- a tabulation that  
10 we could make that would be considered politically  
11 neutral and appropriate in support of state  
12 redistricting efforts.

13 Q Was one of the reasons why the proposal  
14 to use administrative records to generate  
15 block-level CVAP data have the support of the  
16 redistricting office, the fact that administrative  
17 records are based on verified information about a  
18 person's citizenship status instead of a  
19 self-report on a survey?

20 A Not precisely. What it was based on was  
21 our ability to produce fit-for-use statistics that  
22 we could document the quality of. The fact that

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1 citizenship status is verified, at least for  
2 people since 1972 in the NUMIDENT, is evidence  
3 that the quality of the administrative record has  
4 already received some scrutiny.

5 Q So you would agree with the statement  
6 that you -- I'm sorry. Let me just -- let  
7 me -- start that question again.

8 You described citizenship data from the  
9 NUMIDENT as verified, because it's based on the  
10 receipt of an actual legal document; is that  
11 right, Dr. Abowd?

12 A Yes.

13 Q Okay. And you would describe responses  
14 to a citizenship question as unverified, right,  
15 Dr. Abowd?

16 A Yes.

17 Q Let me show you another email. We'll  
18 mark this as Exhibit 9.

19 (Plaintiffs' Exhibit 9, Email, was  
20 marked.)

21 BY MR. HO:

22 Q This is an email from Ron Jarmin to a

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1 number of people, including you, dated  
2 December 22, 2017. That's the top email in the  
3 thread anyway. The document is AR6659.

4 So in the top email, Dr. Jarmin is  
5 forwarding to you and Albert Fontenot?

6 A Fontenot.

7 Q Fontenot. An email --

8 A It's French. Don't say the T at the end.

9 Q Thank you.

10 Dr. Jarmin is forwarding an email to you  
11 that he previously sent to -- it's redacted, but  
12 it's addressed to someone named Arthur, and it's  
13 cc'd to Enrique Lamas; is that right?

14 A That's correct.

15 Q In -- now, you understand -- do  
16 you -- the Arthur referred to by Dr. Jarmin in  
17 this email -- or sorry. Let me start that again.

18 The Arthur to whom this email is  
19 addressed, does that appear to you to be  
20 Arthur Gary from the Department of Justice?

21 A Well, I understand it to be someone in  
22 the Department of Justice, but I don't know any of

1       them.   So I don't know the last name.

2           Q     Do you understand -- okay.   I'm sorry.

3                 The first sentence is, "Thank you for  
4   your letter dated 12/12/2017 regarding improving  
5   the quality of citizenship information for DOJ  
6   enforcement of the Voting Rights Act."

7                 When Dr. Jarmin wrote that, do you  
8   understand that to be a reference to the DOJ's  
9   request to add a citizenship question to the  
10   census?

11          A     Yes.

12          Q     And would this email -- you understand  
13   Dr. Jarmin to be forwarding a description of the  
14   analysis that you were working on described in  
15   your email to Mr. Beatty, the exhibit that we just  
16   discussed previously, Exhibit 8?

17          A     Yes.

18          Q     The third sentence down in Mr. Jarmin's  
19   email to Arthur starts with the phrase, "They have  
20   now briefed me."

21                 Do you see that?

22          A     Yes.

1 Q Okay. Mr. -- Dr. Jarmin writes, "They  
2 have now briefed me, and their findings suggest  
3 that the best way to provide P.L. 94 block-level  
4 data with Citizen Voting Age Population by Race  
5 and Ethnicity would be through utilizing a linked  
6 file of administrative and survey data the  
7 Census Bureau already possesses."

8 When Dr. Jarmin refers to a linked file  
9 of administrative and survey data, that's a  
10 reference to what you were describing earlier in  
11 your email to Mr. Beatty about adding citizenship  
12 or -- creating a citizenship table via  
13 administrative records, correct?

14 A Yes. That's a shorthand way of  
15 expressing that.

16 Q And when Dr. Jarmin writes using this  
17 administrative record would result in higher  
18 quality data, do you understand that to be a  
19 reference, in part, to the fact that information  
20 about citizenship status in the administrative  
21 record is based, in part, on legal documents about  
22 a person's citizenship status as opposed to a

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1 survey report?

2 MR. EHRLICH: Objection. The document  
3 says administrative and survey data in the  
4 Census Bureau.

5 BY MR. HO:

6 Q You can answer the question.

7 A So I understand him to be summarizing the  
8 knowledge that we had after about a week and a  
9 half of studying these linked files about the  
10 disagreement between survey responses and  
11 administrative citizenship data.

12 Q So you'd agree that if there's  
13 disagreement between survey responses and  
14 administrative -- excuse me. Strike that. Let me  
15 start that again.

16 You would agree if there's a disagreement  
17 between survey responses and administrative data  
18 about a person's citizenship status, that usually  
19 you'd assume that the verified administrative  
20 records are correct and that the reported survey  
21 response is incorrect, right, Dr. Abowd?

22 MR. EHRLICH: Objection. Form.

1 THE WITNESS: No. It's not as simple as  
2 that. If you were certain that the person you had  
3 the survey response from and the person you had  
4 the administrative record from were the same, and  
5 you had a valid statistical sample of such people,  
6 then you could estimate the error rates in both  
7 the agreement and disagreement cells. We were at  
8 that time -- and we still are -- hypothesizing  
9 that when the citizenship variables disagree for a  
10 citizen, that that error rate is relatively low.  
11 And that when they disagree for noncitizens, that  
12 error rate is relatively high. That would be one  
13 of the hypotheses that we would attempt to verify  
14 before asserting that the administrative data  
15 should replace the survey response. Otherwise, we  
16 would use them in combination.

17 BY MR. HO:

18 Q Okay. I understand that there are some  
19 errors associated with trying to determine a  
20 person's citizenship status based on the  
21 administrative record. We talked about one early,  
22 which was that a person's citizenship status may

1 change. That's not yet reflected in the  
2 administrative record. That's one source of  
3 error, when you try to ascertain someone's  
4 citizenship status from the administrative record,  
5 right, Dr. Abowd?

6 A Correct.

7 Q Another source of error is if you have a  
8 problem in the linking of records, the person that  
9 you're wanting to know the citizenship status of  
10 might not be the same person that you're looking  
11 at the administrative record of, right, Dr. Abowd?

12 A That's correct.

13 Q Do you have confidence in the  
14 Census Bureau's matching procedures when you're  
15 trying to ascertain whether or not a particular  
16 Census Bureau survey respondent is, in fact, the  
17 same person in the administrative NUMIDENT data?

18 A When the quality of the  
19 personally-identifiable information on both the  
20 survey response and the administrative record are  
21 sufficiently high, yes. And as the quality of  
22 either of those two sources of PII deteriorates,

1 then increasingly, no, to the point where you  
2 can't link, at all.

3 Q You described earlier there was a -- the  
4 hypothesis that if there's disagreement between  
5 the administrative record and a person's  
6 self-response, that it's -- that you could  
7 hypothesize that the administrative record is more  
8 likely to reflect the person's citizenship status  
9 than the survey self-response; is that correct,  
10 Dr. Abowd? Do I understand you correctly?

11 A In the hypothetical I posed where the  
12 linkage was not an issue, yes.

13 Q When the Census Bureau links survey  
14 respondents to the administrative data and there's  
15 disagreement between the survey response and the  
16 administrative data, do you think it's a  
17 reasonable hypothesis that the administrative data  
18 about a person's citizenship status is more likely  
19 to be reliable than the survey response?

20 MR. EHRLICH: Objection. Form.

21 THE WITNESS: When the linkage is high  
22 quality, yes.

1 BY MR. HO:

2 Q Is the linkage performed by the  
3 Census Bureau between ACS survey respondents and  
4 the NUMIDENT data what you would describe as high  
5 quality?

6 A Sometimes, yes, and sometimes, no.  
7 Generally, yes.

8 Q For purposes of the analysis that you  
9 conducted referenced in your January 19th memo,  
10 was the linkage between the ACS respondents and  
11 the NUMIDENT data about citizenship status, was  
12 that a high-quality match?

13 A So the average statistic for that match  
14 was that it was a high-quality match, but not all  
15 of the records matched with high quality.

16 Q Okay.

17 A And some didn't match, at all.

18 Q Generally speaking, when there was  
19 disagreement -- in the analysis that you performed  
20 in your January 19th memo between the  
21 administrative record and a person's survey  
22 response about citizenship data, is it reasonable

1 to conclude that the administrative record is more  
2 likely to be correct about the person's  
3 citizenship status than the response to the ACS  
4 question?

5 A When the administrative record says you  
6 are a citizenship and when the linkage of high  
7 quality, as it generally is for people whom the  
8 administrative record says you're a citizen, then,  
9 yes. When the administrative record says that  
10 you're not a citizen and the linkage is of high  
11 quality, then subject to the caveats I have  
12 already expressed, I would also say yes. But as  
13 the linkage quality deteriorates, then you're not  
14 sure you're looking at the same person and you're  
15 also not confident of the -- either the survey  
16 responses or the administrative record.

17 Q So let's just talk about the  
18 noncitizens --

19 A Okay.

20 Q -- in the NUMIDENT data. When you have a  
21 non- -- someone who is identified as a noncitizen  
22 in the NUMIDENT data and you link that person to

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1 an ACS response and there's disagreement, that is,  
2 the person who is identified in the NUMIDENT as a  
3 noncitizen, but their ACS response is citizen,  
4 when you conducted that analysis for purposes of  
5 your January 19th memo, do you have confidence  
6 that person is likely a citizen -- sorry -- likely  
7 a noncitizen and that the response to the ACS  
8 question was incorrect?

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Vague;  
Compound;  
Confusing

9 MR. EHRLICH: Objection. Form.

10 THE WITNESS: We believe that the most  
11 likely conclusion is that the administrative  
12 record is correct and the survey response is not.

13 BY MR. HO:

14 Q And I believe in your January memo, you  
15 conclude that about 30 percent of ACS respondents  
16 who are identified as noncitizens in the NUMIDENT,  
17 respond to the ACS citizen question by stating  
18 they are citizens, right, Dr. Abowd?

19 A We agreed to use 30 percent as the  
20 summary for a range, but yes, I think that's a  
21 representative statistic.

22 Q So based on your previous responses

1 today, you think it's likely that 30 percent of  
2 noncitizens who responded to the ACS citizenship  
3 question responded incorrectly about their  
4 citizenship status to the ACS question, right,  
5 Dr. Abowd?

6 A I -- the correct statement is that the  
7 data provided for 30 percent of the survey  
8 respondents who indicated citizens, that wasn't  
9 necessarily provided by that person -- that's what  
10 I'm trying to correct -- is likely incorrect, yes.

11 Q Do you have any empirical basis to expect  
12 that noncitizens who respond to a citizenship  
13 question on the 2020 decennial enumeration  
14 questionnaire will respond more accurately than  
15 noncitizens who have responded to the citizenship  
16 question on the ACS?

17 A No.

18 Q Is there any reason to think that  
19 noncitizens who respond to the citizenship  
20 question on the 2020 enumeration will respond less  
21 accurately than noncitizens who respond to the  
22 citizenship question on the ACS?

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1           A    We have identified an upward trend in the  
2   disagreement between the survey responses and the  
3   administrative record.   It's not precise enough  
4   for us to label as a definitive upward trend, but  
5   it -- there are definitely indications in the data  
6   that the willingness to respond accurately to that  
7   question is declining.

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8           Q    Would you expect noncitizens responding  
9   to the citizenship question on the 2020 decennial  
10   enumeration questionnaire to respond inaccurately  
11   at a higher rate than the inaccuracies you  
12   documented among noncitizens responding to the  
13   citizenship question on the ACS?

14          A    I don't have a well-formed opinion on  
15   that.   I have told you that there's a -- the  
16   appearance of a trend that we have not determined  
17   has the statistical quality to say is a trend, but  
18   is -- so in the absence of that, I would have to  
19   say my expectation is the same as the most recent  
20   data, which would be the 2016 ACS.   That's where  
21   the 30 percent number comes from.

22          Q    For producing the block-level CVAP data,

1 there are, at present, no plans in place to  
2 address situations where a person's self-report in  
3 response to the citizenship question on the 2020  
4 enumeration questionnaire disagrees with that  
5 person's citizenship status as noted in the  
6 NUMIDENT data file; is that right, Dr. Abowd?

7 THE WITNESS: I'm sorry. Could you read  
8 the first part of his question back to me?

9 (Thereupon, the reporter read the record  
10 as requested.)

11 THE WITNESS: I think you're asking me  
12 about the processing decisions for the 2020 census  
13 and the subsequent production decisions for the  
14 CVAP tabulation; is that right?

15 BY MR. HO:

16 Q Right.

17 A There are no current decisions about how  
18 that's going to be done.

19 Q There are no current decisions about how  
20 you're going to reconcile differences between the  
21 responses to the citizenship question and a  
22 person's citizenship status as defined in the

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1 NUMIDENT?

2 A That's correct.

3 Q The last sentence of Exhibit 9,  
4 Dr. Jarmin's email says, "I suggest we schedule a  
5 meeting of Census and DOJ technical experts to  
6 discuss the details of this proposal."

7 That meeting did not take place, did it,  
8 Dr. Abowd?

9 A That's correct.

10 Q You anticipated having such a meeting in  
11 January of 2018, right?

12 A I wouldn't say that the Census Bureau  
13 anticipated having such a meeting. I would say  
14 that we offered DOJ the opportunity to meet with  
15 us and hoped that they would.

16 Q I'm going to show you a document. We'll  
17 mark it as 10.

18 (Plaintiffs' Exhibit 10, Email, was  
19 marked.)

20 BY MR. HO:

21 Q This is an email thread, the top email is  
22 from Misty Heggeness to you dated January 2, 2018

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1 with Bates number AR6623. The second email on the  
2 thread, you write on January 2, 2018 at 1:16 p.m.,  
3 "Don't worry about missing the DOJ follow-up  
4 meeting. I don't expect many technical questions.  
5 It's mostly about messaging."

6 You wrote that, right?

7 A I did, yes.

8 Q Misty Heggeness is the senior advisor for  
9 evaluations and experiment at the Census Bureau,  
10 right?

11 A Yes, she is.

12 Q Why did you tell her not to worry about  
13 missing the DOJ follow-up meeting?

14 A So I believe what's going on in this  
15 email, I'm using a very shortened sentence for the  
16 response to the DOJ request follow-up meeting.

17 Q Okay.

18 A We never had a DOJ meeting scheduled.  
19 I'm sure I'm referring to shorthand of we're  
20 working on a technical response to the DOJ's  
21 request and there were follow-up meetings from  
22 that.

1 Q When you say the meeting would be mostly  
2 about messaging, what did you mean by that?

3 A To be honest, I'm not sure. I believe  
4 that on the 2nd of January, we were discussing the  
5 wording of a short summary memorandum that I was  
6 working on for the acting director, summarizing  
7 the state of the research through the end of  
8 December.

9 Q You testified a moment ago that DOJ  
10 declined to take the meeting that was referenced  
11 in Dr. Abowd -- Dr. Jarmin's email; is that right?

12 A That's correct.

13 Q Do you know why?

14 A I believe it's in the administrative  
15 record, the reply to this email. I'll summarize.  
16 Again, if you say this is the author of the  
17 letter, I believe you, but names haven't stuck.

18 Said that the basis for our request is  
19 adequately documented in the letter and we decline  
20 to further meet.

21 Q In your experience, is it unusual to  
22 receive a data request from an agency to the

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1 Census Bureau and then for the agency to refuse to  
2 meet to discuss the technical aspect of that data  
3 request?

4 A My experience in my current position is  
5 only two years old. I will answer on behalf of  
6 the agency. Yes.

7 MR. HO: We've been going for about an  
8 hour 50, 55 or so. Would now be an okay time for  
9 a bathroom break?

10 MR. EHRLICH: It's okay with me.

11 VIDEOGRAPHER: This concludes Media Unit  
12 Number 1. The time on the video is 10:55 a.m. We  
13 are off the record.

14 (Off the record.)

15 VIDEOGRAPHER: This begins Media Unit  
16 Number 2. The time on the video is 11:19 a.m. We  
17 are on the record.

18 MR. EHRLICH: Just to clarify something  
19 we were discussing earlier on the record when we  
20 were talking about you had received documents  
21 yesterday evening that you wanted to talk to  
22 Dr. Abowd about. We wanted to clarify that you

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1 get seven hours for the 30(b)(6). If you want to  
2 reserve time at the end of today in order to  
3 review those documents and ask him more questions,  
4 we can produce him again for you.

5 MR. HO: Thanks for that offer. I'll  
6 confer with co-counsel and counsel for the other  
7 plaintiffs --

8 MR. EHRLICH: Okay.

9 MR. HO: -- and we'll talk.

10 MR. EHRLICH: Thank you.

11 BY MR. HO:

12 Q Dr. Abowd, before moving on to another  
13 topic, I just want to ask a few questions about  
14 some things we discussed earlier.

15 You testified that when the  
16 Census Bureau, after the 2020 decennial census,  
17 produces the block-level CVAP data, that there  
18 will be error margins associated with that  
19 block-level CVAP data. Do you remember that?

20 A Yes.

21 Q Okay. Today, does the Census Bureau know  
22 whether or not the error margins associated with

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1 that block-level CVAP data will be larger or  
2 smaller than the error margins associated with the  
3 block-level CVAP data that DOJ currently uses,  
4 based on ACS estimates?

5 A I have to give a nuanced answer to that  
6 question. We don't know, because we haven't set  
7 the parameters of the disclosure avoidance system  
8 yet. That's somewhat new territory for my  
9 colleagues, and I am certain that one of the  
10 things we will be discussing is whether the error  
11 margins associated with both the P.L. 94 and the  
12 CVAP table at the block level still allow  
13 redistricting offices and the  
14 Department of Justice to use the data effectively.  
15 That is the use case for those data.

16 Q Would you agree -- never mind. That's  
17 fine.

18 You testified a little bit about a  
19 possible RCT of the citizenship question and  
20 request from, I believe it was Enrique Lamas, to  
21 get a proposal for doing an RCT of the citizenship  
22 question without the prefatory nativity question

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1 that's been used in past questionnaires.

2 Did I get that right?

3 A Everything you just said is what I said,  
4 I think, yes.

5 Q Okay. And that was in March of 2018?

6 A May.

7 Q May of 2018.

8 And are there documents to reflect the  
9 request from Mr. Lamas to conduct an RCT of the  
10 citizenship question without a prefatory question  
11 without nativity?

12 A First of all, he didn't request an RCT.  
13 He requested a proposal for an RCT.

14 Q Thank you.

15 A And I have seen Victoria Velkoff's  
16 response to that request. So there are artifacts,  
17 yes.

18 Q Was that request, or Ms. Velkoff's  
19 response, were those in emails?

20 A I do not know how the correspondence  
21 between Enrique and Tori Velkoff was conducted.  
22 But there is a document that is the proposal of

1 American Community -- ACS office produced, and  
2 that was transmitted to me by email.

3 Q And when you say there was a document  
4 produced, was that like a memorandum attached to  
5 an email or was it in the text of an email?

6 A It was a separate document, short summary  
7 of the proposal. I think it was all of the  
8 proposal, but it was short.

9 Q As set forth in that proposal, how long  
10 would the RCT have taken?

11 A I did read it very recently, but I did  
12 not memorize it. The way it works in the  
13 experimental components of the American Community  
14 Survey is you designate certain months in the  
15 field for data collection. And then the  
16 American Community Survey data are processed in a  
17 flow, but we don't release the official products  
18 until the flow of an entire year has been  
19 processed, but we would have been able to evaluate  
20 an experiment as soon as the months that were in  
21 the experiment were evaluated.

22 She gave two separate start dates for the

1 experiment. One was November and one was early in  
2 2019. But I don't remember her saying how many  
3 months it had to run to achieve the standard  
4 errors that -- that it was designed to produce, so  
5 that's -- it may not have been in there.

6 Q Do you know how expensive either of those  
7 proposals to conduct an RCT of the citizenship  
8 question would have been?

9 A Would you remember to re-ask that  
10 question after the next break? I would rather  
11 give you exactly the right answer than the two  
12 numbers I remember, and I think I have transposed  
13 digits in one of them, so I'm just going to go  
14 look.

15 Q I appreciate that. And if it's not me,  
16 then it might be somebody else.

17 A Right. As long as someone knows to  
18 re-ask, I know my counsel will remind me to check.

19 Q Was that RCT proposal discussed with  
20 anyone outside of the Census Bureau?

21 A When I discussed that RCT proposal with  
22 the acting deputy director, he took

1 responsibility, in conjunction with the acting

2 director, for giving me the no-go, but he didn't

3 tell me whether he discussed with anyone else  
4 outside the Bureau.

5 Q So you're aware that Dr. Jarmin and -- I  
6 don't know if it's Dr. or Mr. Lamas?

7 A It's doctor. It's Dr. Velkoff, too.

8 Q Okay. You don't know if anyone other  
9 than Dr. Jarmin and Dr. Lamas were involved in  
10 this -- the decision not to do the RCT of the  
11 citizenship question?

12 A I do not know.

13 Q You testified at one point whether or  
14 not -- excuse me -- you testified at one point  
15 that there are indicators in that -- let me try  
16 again.

17 I think you testified earlier that there  
18 are indicators suggesting that nonresponse rates  
19 to a citizenship question among noncitizens are  
20 increasing; is that right?

21 A Yes.

22 Q What are those indicators that you were

1 referring to?

2 A In our technical research, we've  
3 conducted statistical experiments that attempt to  
4 estimate the extent to which certain categories of  
5 households that either include a noncitizen or  
6 include someone for whom we don't know the  
7 citizenship status might not respond to  
8 questionnaires that include a citizenship  
9 question. In the analysis for the 2000 census,  
10 that number was around 3 percentage points. In  
11 the analysis circa 2010, it was closer to 5  
12 point -- 5 percentage points. And the most recent  
13 analyses we have produced, it's closer to five and  
14 a half percent -- 5.8 percentage points and  
15 applies to a bigger subpopulation of households  
16 than our previous analyses.

17 Q Any other analyses suggesting that there  
18 are indications of greater nonresponse over time  
19 from noncitizens to a citizenship question other  
20 than the ones you've just described?

21 A If you look at the item nonresponse rates  
22 and the break-off rates, the reason I said that

1 they didn't meet statistical standards for saying  
2 we think there's a trend is because they're short  
3 and there have been some procedural changes that  
4 materially affect the year-to-year comparisons,  
5 but they are higher now than they were earlier in  
6 the decade.

7 Q So we have increasing unit nonresponse,  
8 increasing item nonresponse and increasing  
9 break-off rates, all suggesting that noncitizens'  
10 sensitivity to a citizenship question have been  
11 increasing over time; is that right, Dr. Abowd?

12 A You have to permit the caveat that I  
13 didn't say increasing. I said they're going up,  
14 but that, specifically, I don't have sufficient  
15 statistical evidence to conclude there's an  
16 increase in trend.

17 In the case of the -- of the item  
18 nonresponse rates, it's because of the change in  
19 design that occurred in 2013. In the case of the  
20 break-off rates, it's because we haven't been able  
21 to analyze full 2017 data, and we only had 2016  
22 data. So we don't -- I don't, really, even have

1 two points for the break-off rates.

2 But at the time we prepared our technical  
3 report for the Secretary, we had the 2000 and the  
4 2010, and those two numbers are statistically  
5 different from each other, and the one in 2010 is  
6 larger.

7 Q But you would agree that the item  
8 nonresponse and the break-off rate analysis that  
9 you've done, they're both consistent with the  
10 notion that noncitizens' sensitivity to a  
11 citizenship question and unwillingness to respond  
12 to such a question, have increased over time?

13 MR. EHRLICH: Objection. Form. Vague;  
Compound

14 THE WITNESS: I will agree to the  
15 statement, consistent with the -- with the  
16 increase over time, yes.

17 BY MR. HO:

18 Q Other than the three things we've  
19 discussed, unit nonresponse, item nonresponse and  
20 break-off rates, are there any other indicators  
21 suggesting that noncitizens' sensitivity to a  
22 citizenship question has been increasing over

1 time?

2 A There are survey indicators from the  
3 Census Barriers, Attitudes and Motivators Survey  
4 and qualitative analysis from focus groups that  
5 also suggest it.

6 Q Other than the CBAMS and the focus  
7 groups, any other indicators that you're aware of  
8 suggesting that noncitizens sensitive to a  
9 citizenship question has been increasing?

10 A None that I can recall at this moment.

11 Q Okay. You said something about the 5.8  
12 percentage point reduction in response rates among  
13 noncitizens to a citizenship question -- because  
14 of the presence of a citizenship question; is that  
15 right, Dr. Abowd?

16 A I can restate the question so it's right.

17 Q Please.

18 A We did analyses -- we did analyses that  
19 compared different categories of households that  
20 included citizens with categories of households  
21 that either didn't or may not include citizens.  
22 And the most reset of them -- which is in the



1 technical paper that was delivered to you last  
2 night -- uses an estimate of 5.8 percentage  
3 points.

4 Q Right. That 5.8 percentage point  
5 estimate, that's not reflected in your  
6 January 19th memo from earlier this year, right?

7 A That's correct.

8 Q But it is reflected in the updated white  
9 paper dated August 6, 2018 that plaintiffs'  
10 counsel received after the close of business last  
11 night, right, Dr. Abowd?

12 A Well, I don't know when you received it,  
13 but that is the correct document, yes.

14 Q Are you aware of any reason why that  
15 document couldn't have been produced to  
16 plaintiffs' counsel before last night?

17 A That document had been produced in  
18 substantially the same form three weeks ago.

19 Q When you say produced in substantially  
20 the same form, to whom do you mean?

21 A There's a version dated July and a  
22 version dated August, both of which were provided

1 to the Department of Commerce in response to a  
2 discovery request we were processing.

3 Q Do you know when the August 6th version  
4 of that paper was produced from the Census Bureau  
5 to the Department of Commerce?

6 A I do not.

7 Q Was it yesterday?

8 A I don't think so -- no. It definitely  
9 wasn't yesterday. It -- because I asked for a  
10 copy at the Department of Commerce on Monday, and  
11 I was given a copy with the August 6th date. I  
12 was expecting to see a copy with a July date.  
13 There's no difference between them, other than  
14 some grammar mistakes that have been corrected.

15 Q I want to show you a document that you  
16 talked about at your last deposition. This was a  
17 short version, I think, of the analysis we were  
18 just talking about. It was the first Abowd  
19 Deposition Exhibit 4, marking it as Exhibit 11 for  
20 this deposition.

21 (Plaintiffs' Exhibit 11, Analysis, was  
22 marked.)

1 BY MR. HO:

2 Q I want to turn to Page 7 of this  
3 document, Bates number 5506, and I want to ask you  
4 about Table 5 and the description of Table 5.  
5 Take a look at it, and let me know when you're  
6 ready to talk about it.

7 Oh, I'm sorry. I said the wrong table.  
8 I meant Table 6, and the paragraph right above  
9 Table 6, which I believe describes Table 6.

10 A Okay.

11 Q The analysis depicted in Table 6 is a  
12 longitudinal analysis, right, Dr. Abowd?

13 A That's correct.

14 Q And that means it's an analysis of data  
15 that was gathered from the same subjects  
16 repeatedly over a period of time, right,  
17 Dr. Abowd?

18 A Same subject households, yes.

19 Q So just to put it in plain English, a  
20 longitudinal survey is, basically, a survey that  
21 is administered periodically to the same  
22 households in this case, right?

1 A In this case, yes. That's right.

2 Q Now, the first sentence in the paragraph  
3 above Table 6 reads: Other proxy measures for  
4 understanding response sensitivity to questions of  
5 citizenship can be examined with longitudinal  
6 data.

7 What does that sentence mean?

8 A It's a -- it's terse technical writing  
9 for it, and now we're going to do things similar  
10 to what we just did for cross-sectional studies  
11 with some longitudinal data.

12 Q And the premise here is that a  
13 longitudinal analysis could shed some light on the  
14 sensitivity of citizen- -- or the question on  
15 citizenship, right, Dr. Abowd?

16 A Yes.

17 Q The SIPP, S-I-P-P, that's a longitudinal  
18 survey featuring a citizenship question, correct?

19 A That's correct. It's the Survey of  
20 Income and Program Participation.

21 Q And who is it conducted by?

22 A The Census Bureau.

1 Q According to the table, in Wave 1 of the  
2 SIPP, noncitizens were 6.1 of respondents but by  
3 Wave 2, they were only 5.7 percent of SIPP  
4 respondents, correct?

5 A That's correct.

6 Q So just to explain what that means,  
7 noncitizens shrank as a share of respondents to  
8 this longitudinal survey because they dropped out  
9 of responding to the survey at a higher rate than  
10 did citizens, correct, Dr. Abowd?

11 A So the two point estimates, 6.1  
12 percentage point and 5.7 percentage point -- the  
13 5.7 is less than the 6.1. I think I asked the  
14 authors to ensure that the standard error of the  
15 difference was -- which is negative -- was also  
16 sufficiently precise. On the hypothesis that  
17 that's the case -- I don't have the standard or  
18 the difference here -- then, yes, that's the  
19 correct conclusion.

20 Q So the idea that the white paper's  
21 authors are operating under here is that if  
22 noncitizens dropped out of a longitudinal survey

1 featuring a citizenship question at a higher rate  
2 than did citizens, then that suggests that  
3 noncitizens are more sensitive to a citizenship  
4 question and might fail to respond to a survey  
5 with a citizenship question at a higher rate than  
6 citizens; is that right?

7 A So the nuanced answer to your question is  
8 that it is suggestive of that. In these kinds of  
9 survey situations, we can't design the gold  
10 standard randomized controlled trial for which the  
11 precise hypothesis that you stated would be the  
12 one you could precisely test. So the  
13 questionnaire does include a citizenship question.  
14 It includes lots of other questions, as well. And  
15 subject to that caveat, the conclusions that you  
16 drew about the difference between Wave 1 and  
17 Wave 2 participation -- sorry, response rates --  
18 is correct.

19 BY MR. HO:

20 Q And the Census Bureau agrees with the  
21 authors of the white paper that this longitudinal  
22 analysis is suggestive of the notion that

1 noncitizens are more sensitive to a question about  
2 citizenship and less likely to respond to a survey  
3 featuring a citizenship question, correct?

4 MR. EHRLICH: Objection. Form. Vague;  
Compound

5 THE WITNESS: The Census Bureau considers  
6 the evidence from the SIPP to be consistent with  
7 the other evidence that we have examined  
8 suggesting that households that either contain a  
9 noncitizen or contain at least one person for whom  
10 we do not know the citizenship status are more  
11 sensitive to questionnaires that include questions  
12 about citizenship status.

13 BY MR. HO:

14 Q There are other longitudinal studies  
15 conducted by the Census Bureau featuring a  
16 question on citizenship, right, Dr. Abowd?

17 A Yes.

18 Q For example, the Current Population  
19 Survey, CPS, is a longitudinal survey conducted by  
20 the Census Bureau featuring a citizenship  
21 question, correct?

22 A So that's not technically correct. The

1 current population's survey frame is only  
2 longitudinal in the sense of the selected housing  
3 units, not in the sense of the selected persons  
4 who are in those housing units. So the  
5 interviewer's instructions are to go back to the  
6 same physical address, and whoever is living there  
7 gets interviewed.

8 Q So it's fair to say, though, that it's  
9 longitudinal survey of the same household's units  
10 and that it -- correct?

11 A Housing, not household.

12 Q Okay.

13 A That's precisely what I'm trying to  
14 correct.

15 Q Got it.

16 So the CPS features a citizenship  
17 question, correct?

18 A Yes.

19 Q And it's a longitudinal survey of the  
20 same housing units, correct?

21 A The survey is longitudinal. The  
22 citizenship question isn't.



1           Q    The citizenship question does get asked  
2 periodically in the CPS, correct?

3           A    I'm going to take the opportunity to  
4 correct something from my --

5           Q    Uh-huh.

6           A    -- testimony earlier where I was showing  
7 my age.

8                   Early in my career, I used the CPS a lot,  
9 and early in my career, the citizenship status  
10 question only appeared on supplements. They were  
11 called the immigrant supplement. Beginning in  
12 1994, the question is asked every month, but is  
13 only asked of a respondent once. And so the next  
14 time the interviewer goes to that household -- we  
15 call it dependent surveying -- if the survey form  
16 indicates that you're talking to the same person  
17 who answered before, then a number of questions,  
18 including the citizenship question, aren't asked  
19 again. So it's not longitudinal on the  
20 citizenship question in the same way that the SIPP  
21 in the era being examined here would be  
22 longitudinal.

1           Q     Just so I understand correctly, if  
2     someone responds to the CPS, the first time, they  
3     get a citizenship question, correct?

4           A     So the CPS, like the American Community  
5     Survey, accepts the responses for every member of  
6     the household from a single respondent.

7           Q     Uh-huh.

8           A     And so if -- if the -- and they're  
9     categorized by numbers that refer to the -- to the  
10    respondent. If the next time that housing unit is  
11    in the sample, the same family, technically  
12    household, and members are there, then the  
13    question is not supposed to be asked about someone  
14    for whom the survey already has the data.

15          Q     So the household receiving the CPS survey  
16    questionnaire is absent any change to the  
17    composition of the household only supposed  
18    to be -- ask the citizenship question once?

19          A     Month and Sample 1 -- and I didn't review  
20    the field procedures for what happens if Month and  
21    Sample 2 through 8 enumerator -- the interviewer  
22    finds a different household there. But Month and

1 Sample 1 is when you're supposed to be asked the  
2 nativity question and citizenship.

3 Q And you're not supposed to be asked the  
4 citizenship question again on a subsequent CPS  
5 survey unless the composition of your household  
6 changes?

7 A That's my understanding from the summary  
8 of the field instructions, yes.

9 Q If we looked at the CPS in a way that was  
10 similar to the analysis in this white paper of the  
11 SIPP, and we compared the rates at which different  
12 subgroups dropped out of the CPS survey, say  
13 racial or ethnic minorities or noncitizens, for  
14 example, and compared that to the rate at which  
15 other subgroups dropped out of the CPS, would that  
16 be suggestive of sensitivities to survey with a  
17 citizenship question in a manner similar to the  
18 dropout analysis of the SIPP respondents in the  
19 white paper?

20 MR. EHRLICH: Objection. Form.

21 THE WITNESS: You can't do an analysis of  
22 the CPS data that is strictly comparable to the

1 analysis that's done in Table 6 here. So there is  
2 no way in which I can say if -- I don't know how  
3 to interpret if you did something similar here.  
4 If you show me an analysis that was actually done  
5 on the CPS data, I could understand where the  
6 components came from and I might be able, at that  
7 point, to assist in interpreting those numbers.

8 BY MR. HO:

9 Q Okay. Let's -- I'm not asking about  
10 something exactly comparable to the SIPP analysis  
11 here, but if I took a group of CPS respondents at  
12 Time 1, and then I looked at the same group of CPS  
13 respondents at Time 2, and I noticed, for example,  
14 that noncitizens dropped out of the CPS at a  
15 higher rate than did citizens -- so similar to the  
16 SIPP analysis here -- would that be suggestive of  
17 the notion that noncitizens are more sensitive to  
18 a survey question about citizenship?

19 MR. EHRLICH: Objection. Form.

20 THE WITNESS: As you have stated the  
21 question, you're, again, doing something that you  
22 can't do with the Current Population Survey, so I

1 don't know how to answer your question.

2 A housing unit doesn't drop out of the  
3 Current Population Survey, though it could be  
4 destroyed, in which case there would be a field  
5 report that the housing unit doesn't exist  
6 anymore.

7 BY MR. HO:

8 Q But a housing unit can have -- can refuse  
9 to respond to the CPS, correct?

10 A That's correct.

11 Q So forget that I said drop out. Let's  
12 just talk about refusal to respond.

13 If I look at Time 1 and I compare  
14 response rates to the CPS, and I look at Time 2  
15 and I look at refusals to respond, right, and I  
16 see that noncitizens or noncitizen households  
17 refuse to respond to the CPS at Time 2 at a higher  
18 rate than did citizen households, would that be  
19 suggestive of the idea that noncitizens are more  
20 sensitive to a citizenship question than --

21 A You can't do that experiment either.

22 Q Okay.

1 A It's a housing unit --

2 Q I think I understand.

3 A You don't know who is in the housing unit  
4 when you go the second month and second sample.  
5 That's the point I'm trying to make.

6 Q I think I understand.

7 A Okay.

8 Q All right. Let me try this again.

9 Time 1, right, we have a group of CPS  
10 respondents. Some housing units have a  
11 noncitizen, some housing units do not have a  
12 noncitizen. Time 2, the share of respondents to  
13 the CPS from the housing units that at Time 1 had  
14 a noncitizen has shrunk. Would that be suggestive  
15 of the notion that noncitizens are more sensitive  
16 to a citizenship question than are U.S. citizens?

17 MR. EHRLICH: Objection. Form. Vague; confusing

18 THE WITNESS: Replace Time 1 and Time 2  
19 with Month and Sample 1 and Month and Sample 2.  
20 If you look at statistics for Month and Sample 2  
21 for households for Month and Sample 1 that  
22 identified as citizen versus for households for

1 Month and Sample 1 that identified as noncitizen  
2 and you found differences in the Month and  
3 Sample 2 statistics, that would be as similar as  
4 you could construct to the hypothetical in Table 6  
5 of the working paper we're talking about.

6 BY MR. HO:

7 Q And would that analysis -- if I showed  
8 that Month and Sample 1 housing units that  
9 featured a noncitizen responded at a lower rate at  
10 Month and Sample 2 than the households that at  
11 Month and Sample 1 were all citizen households,  
12 would that be suggestive of greater sensitivity of  
13 noncitizens to a citizenship survey question?

14 MR. EHRLICH: Objection. Form. Vague; Confusing

15 THE WITNESS: That would have an  
16 interpretation similar to Table 6 in the working  
17 paper, yes.

18 BY MR. HO:

19 Q Now, during your last deposition, do you  
20 remember talking about the acronym C-A-P-I or  
21 CAPI?

22 A Computer-assisted personal interview,

1 yes.

2 (Conference call interruption.)

3 BY MR. HO:

4 Q CAPI is, basically, a nonresponse  
5 follow-up for the ACS; is that right?

6 A As of right now, that is correct.

7 Q Okay. And what --

8 A That is the field technical technique  
9 used for nonresponse follow-up in the ACS.

10 Q Okay. And what it means is you send,  
11 basically, a census employee out with some kind of  
12 personal handheld computer device to try to get an  
13 answer to the ACS from a household that didn't  
14 respond; is that right?

15 A That's correct.

16 Q Okay. Now, the SWAT team that did the  
17 white paper that we talked about earlier,  
18 conducted a stratified analysis of the CAPI  
19 response rates breaking census tracts into deciles  
20 from those with the -- the lowest percentage of  
21 household with the noncitizen to those with the  
22 most; is that right?



1           A    If you're going to ask me about one of  
2   the analyses that's in this early draft, I need to  
3   know which one.

4           Q    Sure.

5           A    If you're going to ask me about something  
6   else, I need to have my memory refreshed as to  
7   what you're asking me about.

8           Q    I understand. I don't think it made its  
9   way into that version of the white paper.

10          A    Okay.

11          Q    But my understanding is that at some  
12   point, the SWAT team looked at CAPI response rates  
13   and they compared census tracts to a stratified  
14   analysis, deciles -- percentage -- a household --  
15   census tracts with the lowest percentage of  
16   households with a noncitizen and -- you know, from  
17   1 to 10, those with the greatest percentage of  
18   households with a noncitizen, and compared the  
19   CAPI response rates. Does that help refresh your  
20   memory?

21          A    You've refreshed my memory to the point  
22   that I acknowledge that an analysis was done in

1 which tracts were stratified by decile. But I  
2 would like to review what it is you're asking me  
3 about, because I don't remember specifically what  
4 the stratifier was and what the response was.  
5 I've had to look at a lot of documents over the  
6 last several weeks. I simply am not sure what the  
7 exact analysis is you're asking me about.

8 (Plaintiffs' Exhibit 12, Tables, was  
9 marked.)

10 Q Okay. Let me show you a document. It's  
11 been marked as Exhibit 12. It's a series of  
12 tables. The first page on the document is  
13 AR10408.

14 And I'm looking at the third table, the  
15 CAPI response rate. Now, this table shows an  
16 analysis of census tracts broken into deciles from  
17 least to most percentage of households with a  
18 noncitizen comparing CAPI response rates; is that  
19 right, Dr. Abowd?

20 A Yes. I don't recall exactly how the  
21 tract deciles were determined, but they are from  
22 least to most noncitizen. That's right.

1 Q So one is the decile of census tracts  
2 with the lowest percentage of households with a  
3 noncitizen. Ten is the decile of census tracts  
4 with the largest percentage with households with a  
5 noncitizen, correct?

6 A That's correct.

7 Q And, basically, what that means is, as  
8 you go from 1 to 10, the percentage of households  
9 in a census tract increases, correct?

10 A Percentage of households with a  
11 noncitizen.

12 Q Noncitizen, sorry.

13 And when we look at -- just to take one  
14 number from the table -- for the 10th decile, year  
15 2016, the CAPI response rate is 87.4, bottom right  
16 corner of the table. What does that mean for the  
17 CAPI response rate to be 87.4 for that decile  
18 census tract?

19 A I'm going to check with the author of  
20 this table on the next break to make certain that  
21 the CAPI here means only the nonresponse follow-up  
22 that was followed up by computer-assisted personal

1 interview. We sometimes lump Internet  
2 self-response in, but I don't think that was done  
3 here, because Internet self-response is by itself  
4 separately, and it didn't start until 2013.

5 Q Uh-huh.

6 A And up until 2016, you could also be  
7 followed up with CATI, computer-assisted telephone  
8 interview. So I think I've told you correctly,  
9 that this is nonresponse follow-up  
10 computer-assisted personal interview.

11 In that case, it means that the subsample  
12 of nonrespondents that was selected for  
13 nonresponse follow-up in the ACS were successfully  
14 followed up with the percentages indicated in the  
15 table.

16 Q So just to be clear, the subset of  
17 non- -- of households chosen for nonresponse  
18 follow-up on the ACS for the tenth decile in 2016,  
19 nonresponse follow-up on the ACS was successful  
20 87.4 percentage of the time?

21 A That's correct.

22 Q Now, if we look at this table, correct,

1 that the Bureau found that nonresponse follow-up  
2 for the ACS has declined each year for each  
3 decile; is that correct?

4 A That -- that seems to be correct.

5 Q Okay. And is that consistent with the  
6 notion that citizenship has become a more  
7 sensitive question on surveys since the year 2010?

8 A One of the reasons that this particular  
9 analysis doesn't appear in some of the technical  
10 papers that were relied upon by the larger group  
11 of senior executives at the Census Bureau in  
12 drawing their conclusions, is that the internal  
13 peer review of this particular analysis suggested  
14 that there were enough qualifications to that  
15 conclusion that many of them were unwilling to  
16 make it.

17 You correctly characterized the trend  
18 lines, that there were changes to the design of  
19 the survey that occurred here and there were also  
20 potential other differences that -- that many of  
21 the people who looked at this found qualifications  
22 that -- so that's the right conclusion. But it

1 isn't a conclusion that the Census Bureau,  
2 speaking collectively for the people who peer  
3 reviewed this analysis, would have jointly made.

4 Q I understand there are caveats, but  
5 notwithstanding those caveats, is the decline in  
6 successful nonresponse follow-up for the ACS since  
7 2010 suggestive of the notion that citizenship  
8 questions on surveys have become more sensitive  
9 since 2010?

10 A It's consistent with that interpretation,  
11 yes.

12 Q It also appears that in each year, as a  
13 census tract has greater percentage of households  
14 with a noncitizen, that nonresponse follow-up,  
15 generally, is less successful. Would you agree  
16 with that?

17 A Yes. It's consistent with that  
18 interpretation, as well.

19 Q Okay. So is it consistent -- is that  
20 data consistent with the notion that noncitizen  
21 households are less likely to cooperate with  
22 nonresponse follow-up to the ACS?

1           A    So we didn't -- well, if we did a  
2   difference-and-difference analysis of this table,  
3   I don't remember it.   And I flipped and it doesn't  
4   seem to be in here.   So without a  
5   difference-and-difference analysis, I'm not able  
6   to draw a conclusion like the one you just  
7   suggested.

8           Q    But as a census tract gets a greater  
9   percentage of households with a noncitizen,  
10   generally speaking, nonresponse follow-up in that  
11   census tract is less successful, correct,  
12   Dr. Abowd?

13          A    Is less successful than?

14          Q    Than it is for a census tract with a  
15   lower percentage of households with a noncitizen?

16          A    You're asking me do the numbers go down  
17   when the deciles go up, and that's correct, yes.

18          Q    Now, I believe when you testified at your  
19   last deposition, when you were talking about the  
20   CAPI analysis, you described something like a  
21   spreadsheet that had all the tables that you  
22   looked at which had been cleared for release by

1 the disclosure review board. Does that ring a  
2 bell?

3 A My testimony rings a bell, yes.

4 Q Do you believe this was the table you  
5 were referring to during your deposition -- or  
6 these set of tables?

7 A I believe so. As it turns out, it wasn't  
8 in the same collection of spreadsheets I thought  
9 it was, but I believe this was the table I was  
10 referring to, yes.

11 Q Has the Census Bureau looked at the 2017  
12 CAPI data?

13 A Someone in the Census Bureau may have.  
14 This team has not yet analyzed the 2017 data.

15 Q Do you know if the 2017 CAPI data shows a  
16 continuing trend of less successful nonresponse  
17 follow-up to the ACS?

18 A I don't know. The production data from  
19 the 2017 ACS won't be ready until September, and  
20 so it's not until after those data have been  
21 generated that you can generate a column that's  
22 comparable to these columns from 2017.



1 Q Has the Census Bureau, in response to  
2 this analysis or for any reason, taken any  
3 measures specifically to address the lower success  
4 rate of nonresponse follow-up in census tracts  
5 with higher percentages of noncitizen households?

6 MR. EHRLICH: Objection. Form.

7 THE WITNESS: I don't believe that you  
8 could point to any specific activity that would  
9 have been explicitly stratified by this decile  
10 analysis. The declining response rate is a  
11 general problem, and we attempt to manage field  
12 operations in a manner that is consistent with  
13 keeping those response rates up. In fact, one of  
14 the reasons we switched to Internet self-response  
15 in the ACS was in an effort to increase the  
16 voluntary response rate. So -- so, generically,  
17 we're, of course, interested in keeping the  
18 response rate high. It's a mandatory survey, but  
19 voluntary or self-response is a critical cost  
20 control factor.

21 That said, the budget for the  
22 American Community Survey has not been increased

1 in proportion to the cost of living, so we don't  
2 have the same resources to do nonresponse  
3 follow-up. So we focus on -- we focus on those  
4 things that are going to get the total nonresponse  
5 follow-up on the --

6 BY MR. HO:

7 Q But has -- sorry.

8 Has the Census Bureau done anything to  
9 try to address the lower rates of nonresponse  
10 follow-up success in areas that have higher  
11 percentages of noncitizen households?

12 A I believe I just said that I'm not aware  
13 of any activity specifically correlated with --  
14 explicitly correlated with these indicators.

15 Q Thank you. Sorry.

16 Just a few other quick questions. You're  
17 familiar the acronym of C-S-A-C or CSAC?

18 A Yes.

19 Q And that stands for Census Scientific  
20 Advisory Committee?

21 A Yes.

22 Q And the members of CSAC advised the

1 Census Bureau director of issues, including the  
2 statistical data collection and survey  
3 methodology?

4 A Field operations, time series analysis,  
5 yes.

6 Q So they advise the Census director on the  
7 topics that I mentioned, and others?

8 A That's correct.

9 Q The members of CSAC are appointed by the  
10 Census Bureau director; is that right?

11 A No. The Census Scientific Advisory  
12 Committee is chartered by the Department of  
13 Commerce. The Census Bureau -- so you are  
14 nominated in response to a Federal Register  
15 notice. There is one now open through October  
16 26th, I think. So you have -- you have to be  
17 nominated through that process, but you can  
18 self-nominate, so anyone can be nominated. Then  
19 the nominations are reviewed by a committee within  
20 the Census Bureau. Most -- all of the directors  
21 are represented. My recollection is that most  
22 send their associate directors, that's somebody at

1 my rank, but some will send a specialist. And  
2 then the director conveys to the Department of  
3 Commerce a set of recommendations to fill a  
4 vacancy. It's the Department of Commerce then  
5 decides to whom to extend that invitation.

6 Q Is it fair to say that, generally  
7 speaking, CSAC members are highly regarded as  
8 social scientists by the Census Bureau?

9 A Yes.

10 Q You're familiar with former Census Bureau  
11 director John Thompson?

12 A I have met Dr. Thompson. Mr. Thompson,  
13 excuse me.

14 Q Fair to say that the Census Bureau has a  
15 high opinion of Dr. Thompson as a scientist?

16 A It is Mr., and yes.

17 Q Fair to say the Census Bureau considers  
18 him well versed in standard Census Bureau testing  
19 practices?

20 A Yes.

21 Q Has the Census Bureau contracted with any  
22 private companies or PR firms to conduct research

1 on public attitudes with respect to answering a  
2 citizenship question?

3 A The Census Bureau has awarded the  
4 integrated communication contract for the 2020  
5 census. Under task orders associated with that  
6 contract, the CBAMS -- I expanded the acronym  
7 earlier -- the CBAMS surveys and the CBAMS focus  
8 groups were conducted. They were conducted by the  
9 contractor, who I believe satisfies the definition  
10 of an external expert on collecting survey  
11 opinion.

12 And after the Secretary instructed us to  
13 put the citizenship question on the 2020 census,  
14 the focus group protocol was modified to begin  
15 collecting information on it, but it was not time  
16 to modify the survey protocol.

17 Q Who is that external contractor?

18 A So the lead contractor is  
19 Young & Rubicon.

20 Q Has the Census Bureau contracted with a  
21 company named Reingold to conduct research on  
22 public attitudes with respect to answering a

1 citizenship question?

2 Reingold spelled R-E-I-N-G-O-L-D.

3 A I do not know whether Reingold is a  
4 subcontractor in the integrated communication  
5 contract. If they are, then the answer could be  
6 yes. I'm not aware of another contract, but I  
7 will check during a break.

8 Q Okay. Does the Census Bureau think that  
9 adding a citizenship question to the 2020  
10 enumeration questionnaire is a good idea?

11 A No.

12 MR. HO: Can we go off the record for a  
13 second?

14 VIDEOGRAPHER: We're going off the  
15 record. The time on the video is 12:07 p.m.

16 (Off the record.)

17 VIDEOGRAPHER: This begins Media Unit  
18 Number 3. The time on the video is 1:03 p.m. We  
19 are on the record.

20 BY MR. HO:

21 Q Dr. Abowd, I don't have any other  
22 questions for you at this time, but I know you

1 said you were going to check on a few things at  
2 lunch, and I just wondered if there was anything  
3 in particular that you wanted to offer any detail  
4 about that you were unable to -- for which you  
5 were unable to do earlier?

6 A Yes. First of all, let's go to the  
7 easiest one. Reingold is a contractor for the  
8 Census Bureau.

9 Q Okay. What are they a contractor for?

10 A They're in -- they have one of the  
11 decennial communications contracts. I have  
12 requested a summary of the task orders. I haven't  
13 received it yet.

14 Q Do you know what work they've performed  
15 for the Census Bureau?

16 A That's why I asked for a summary of the  
17 task orders. I do not.

18 Q Do you know if there are any documents  
19 reflecting the work that Reingold has done for the  
20 Census Bureau?

21 A I didn't ask that. I will at the next  
22 break.

1 Q Any other issues you'd like to clarify?

2 A In the ACT -- I'm sorry -- ACS RCT, the  
3 design was to last for six weeks of data  
4 collection, so the one that would -- had it  
5 started in November, those data would have been  
6 collected by mid-January. There were two designs.  
7 They both involved a control group, which in these  
8 experiments just means the ACS says it is being  
9 run, so we don't have a separate control group.

10 A questionnaire that just had the  
11 American Community Survey citizenship question,  
12 just the citizenship question, and a group -- a  
13 treatment group that just had the CPS version, yes  
14 or no. It wasn't the exact CPS version but a  
15 two-choice version. And then --

16 (Thereupon, the court reporter  
17 clarified.)

18 THE WITNESS: A treatment group that had  
19 no citizenship question.

20 To achieve the high level of accuracy  
21 would have been \$4 million. To achieve the lower  
22 level of accuracy would have been 2 million, same



1 field period.

2 BY MR. HO:

3 Q Thank you. And this would have been the  
4 only testing of the 2020 decennial questionnaire  
5 with a citizenship question in it, correct?

6 A This is the only field testing with and  
7 without citizenship question, directly analyzing  
8 the citizenship question that we have considered  
9 at the Census Bureau.

10 I also verified that the 2010 census  
11 questionnaire had full cognitive and field  
12 testing. That the 2020 questionnaire without the  
13 citizenship question had -- so I asked him the  
14 same way you asked me, was adequately, cognitively  
15 tested; yes.

16 Q I'm sorry. Who did you ask whether or  
17 not?

18 A I asked my staff -- the same group that I  
19 had been asking generally about the testing, I  
20 specifically asked about the cognitive testing for  
21 the 2020 questionnaire, with and without the  
22 citizenship question, and their answer was that it

1 was adequately tested with the citizen- -- without  
2 the citizenship question, but not adequately  
3 tested with the citizenship question, cognitive  
4 testing.

5 Q Thank you.

6 A Okay.

7 And, thirdly, in this table, Exhibit 12,  
8 the third panel, the CAPI response rate, I  
9 confirmed, so I can now say the way the tract was  
10 put into deciles was based on the five-year  
11 American Community Survey for the middle five  
12 years of the table, so 2011 through 2015. That  
13 the CAPI response rate is just the CAPI response  
14 rate in the nonresponse follow-up system, okay.

15 I think those were all the things we had  
16 unresolved. If you think there were others -- we  
17 went over our notes, but I think I've answered the  
18 questions that that were unresolved.

19 MR. HO: I don't have any others right  
20 now, so I'm going to pass you along to one of the  
21 other lawyers for one of the other plaintiff  
22 groups, subject, of course, to the issue that I've

1 raised earlier about wanting to potentially ask  
2 you questions about the documents produced last  
3 night. But thank you very much.

4 THE WITNESS: You're welcome.

5 VIDEOGRAPHER: We're going off the  
6 record. The time on the video is 1:08 p.m.

7 (Off the record.)

8 VIDEOGRAPHER: We're back on the record.  
9 The time on the video is 1:09 p.m.

10 EXAMINATION BY MS. SHAH:

11 Q Good morning -- afternoon, Dr. Abowd. My  
12 name is Niyati Shah, and I represent the  
13 plaintiffs in Lupe v. Ross in the District of  
14 Maryland, Case Number 8:1801570.

15 I'd like to just kind of start today by  
16 giving you a document, first, and we can mark it  
17 as Exhibit 13. It is Bates-stamped 4802.

18 (Plaintiffs' Exhibit 13, PowerPoint, was  
19 marked.)

20 BY MS. SHAH:

21 Q And this is a draft PowerPoint from  
22 February 2018 titled submission of the 2020 census

1 and American Community Survey questions to  
2 Congress. If you could turn to Page 4804, and it  
3 has a slide and some presentation notes below the  
4 slide, and notes towards the bottom say that,  
5 "Requests undergo legal review of the  
6 justification by DOC; technical review by the  
7 Census Bureau; and policy review by DOC and OMB."

8 I'd like to put aside technical review  
9 for a moment, and can you tell me what a legal  
10 review is?

11 A A legal review means whether there is any  
12 statutory basis -- first of all, let me preface  
13 with I'm not a lawyer -- my understanding as a  
14 senior executive at the Census Bureau who makes  
15 use of the legal review is that they are  
16 examinations of statutory basis for the request  
17 and the potential for any statutory bars from the  
18 request.

19 Q And who conducts this review?

20 A So the Census Bureau uses the legal staff  
21 of the Office of the General Counsel and  
22 Department of Commerce. A number of their

1 attorneys are assigned to us, I believe, full  
2 time. They have their offices in the  
3 Census Bureau, but they're on the staff of the  
4 General Counsel's office and the Department of  
5 Commerce.

6 Q And when is a legal review conducted in  
7 the process?

8 A My hesitation is not because I don't have  
9 an answer. It's because I don't completely  
10 understand what you're trying to --

11 Q Sure. Sure. So as we mentioned, there  
12 is a legal review, a technical review and a policy  
13 review, correct?

14 A Right.

15 Q Do these happen simultaneously? Do they  
16 happen in some sort of sequential order?

17 A Okay. Usually, they happen  
18 simultaneously. A legal review can be ongoing  
19 while operational decisions are still being made.

20 Q And to clarify, the legal review, the  
21 technical policy -- technical review and the  
22 policy review can all happen simultaneously?

1           A     The -- they can. The policy review is  
2     also a process conducted outside Census Bureau,  
3     and certain parts of it are governed by legal  
4     requirements. So the requirements for a  
5     submission package to the Office of Management and  
6     Budget to get a clearance number so that you can  
7     actually conduct a survey under the  
8     Paperwork Reduction Act, that has timelines.

9           And, generally speaking, leading up to  
10    that, there are Federal Register notices that  
11    gather comments, and they have requirements, as  
12    well. So when we say the policy review, we mean  
13    the whole process of gathering public comment,  
14    preparing a clearance package, submitting the  
15    clearance package, responding to the comments on  
16    the clearance package, and then act in accordance  
17    with the clearance that we're giving.

18          Q     Understand.

19                So was a legal review done for the  
20    Justice Department's request to add a citizenship  
21    question?

22          A     It is my understanding that a legal

1 review was done, yes.

2 Q And specifically by whom?

3 A In this case, that legal review was not  
4 shared with the senior executive staff broadly. I  
5 haven't seen it.

6 Q Do you know why it wasn't shared?

7 A I do not.

8 Q Was it shared by -- was it shared with  
9 Dr. Jarmin?

10 A I don't believe so. I did forget to ask  
11 him. I'll ask him on the next break.

12 Q Okay. And I would also ask if you can  
13 ask if Dr. Lamas saw it.

14 A I'll ask who saw it.

15 Q Thank you.

16 And do you know when it was finally  
17 completed?

18 A I do not.

19 Q And how is it generally documented, the  
20 legal review?

21 A If someone at the Census Bureau has  
22 requested an opinion, one of the attorneys in the

1 Office of the General Counsel prepares an opinion  
2 and conveys it to the person who asked.

3 Q And in this case, did the Census Bureau  
4 ask for a legal review?

5 A My understanding is that the legal review  
6 was prepared at the request of Department of  
7 Commerce. I'll also check that.

8 Q And then can you -- can we go back to the  
9 policy review and can you explain to me who  
10 conducts it in toto?

11 A So within the Census Bureau, we  
12 coordinate the OMB policy review through our  
13 policy coordination office, which is headed by  
14 Robin Bachman. So it would be her staff's  
15 responsibility to ensure that the Federal Register  
16 notices have been properly prepared and that the  
17 clearance packages have been properly prepared.  
18 But, generally, it's the responsibility of the  
19 program funded to conduct the activity to do all  
20 the work, all of the substantive assembly work  
21 associated with doing that. Or in the case of  
22 when you get comments back, processing the



1 comments and developing answers to them.

2 Q And has -- has the policy review been  
3 completed for the citizenship question?

4 A So immediately after our submission to  
5 the Secretary and Congress -- our submission to  
6 Congress via the Secretary of the proposed  
7 questions for the 2020 census and the continuing  
8 American Community Survey questions, a  
9 Federal Register comment period was open that  
10 closed on August 7th.

11 Q Uh-huh.

12 A So that's the initial comment period on  
13 the state of the 2020 census and specifically  
14 opened up after the questions are delivered to  
15 Congress. They closed on August 7th. There were  
16 over 250,000 comments submitted. We are -- so  
17 those will be handled by staff in the decennial  
18 census directorate. They will be charged with  
19 putting the comments that are not in the format  
20 where they can be posted on regulations.gov into  
21 the correct format, and then characterizing them  
22 in a manner such that the Census Bureau can

1 address them in preparing the clearance package  
2 for the 2020 census, which we anticipate  
3 submitting in October.

4 The clearance package itself will also  
5 have a comment period of 30 days. So at the end  
6 of that comment period, we will have to collect up  
7 the comments on the clearance package and address  
8 them, and then Office of Management and Budget  
9 will make a decision about whether to issue that  
10 famous eight-digit number that we can't ask a  
11 survey of without that clearance number.

12 Q Okay.

13 A We are trying to get the clearance number  
14 by the end of this calendar year.

15 Q And each of these reviews yield a  
16 recommendation or an answer to what -- to the  
17 issue that has been presented to it?

18 MR. EHRLICH: Objection. Form.

19 THE WITNESS: So we discussed the  
20 technical review already, so you know what was in  
21 there.

22 I do not know the contents of the legal

1 review.

2 In terms of the policy review, the  
3 obligation at this stage of the policy review is  
4 to correctly describe what you intend to do and  
5 permit stakeholders to comment on it and then to  
6 address those comments and then prepare the  
7 clearance package according to the requirements of  
8 the Office of Management and Budget. And that  
9 generally involves a back and forth between the  
10 staff preparing the clearance package and the  
11 staff -- the very small staff at the Office of  
12 Management and Budget who review these clearance  
13 packages, to make sure that the package  
14 essentially contains what that clearance staff at  
15 OMB expect it to contain. And if there are going  
16 to be any issues surrounding that, those are  
17 generally discussed before the clearance package  
18 is sent. And the clearance package, when it is  
19 sent, is generally sent in the form that the  
20 Office of the Chief Statistician expects it to be  
21 in.

22 Q And when there is a request for a

1 question and there's a recommendation during one  
2 of these three reviews against that question, does  
3 a question become part of the decennial census  
4 form?

5 A The difficulty in answering that question  
6 is that it presumes that on December 12th, there  
7 was a process in place to address a request to put  
8 a question on the census -- the decennial census  
9 short form. To be perfectly clear, there wasn't.  
10 There had not been such a request in anyone's  
11 living memory.

12 And so when the request arrived, the  
13 decennial census directorate assigned its chief of  
14 its communication and relations staff, Burton  
15 Reist, to write what the procedure would be,  
16 first, to see if there was a preexisting  
17 procedure.

18 There was a preexisting procedure in the  
19 following sense. The Census Bureau has always  
20 considered the long form and the  
21 American Community Survey to be an integral part  
22 of the census. It is not the short form actual

1 enumeration, but it is part of census. And so the  
2 process that we had in place for evaluating which  
3 questions would be on the long form dates from the  
4 creation of the long form. And it was inherited  
5 by the American Community Survey and modernized  
6 for the American Community Survey, and the way in  
7 which these bullets on this page -- page AR4804  
8 describe the process as adaptation of the process  
9 that is in place and is used for questions on the  
10 American Community Survey.

11 Q But to go back to my question,  
12 this -- this process that we've just talked about,  
13 the three reviews that are on this page, 4804, if  
14 any one of those reviews advises against the  
15 addition of a question, does the question get  
16 added?

17 A So it would be more iterative than that.  
18 If a technical review revealed that it was going  
19 to be difficult to ask the question for some  
20 reason -- let's speak hypothetically -- then we  
21 would probably not prepare a clearance package  
22 supported by a technical analysis that says this

1 is not likely to work very well. The  
2 Census Bureau would re-examine the use case for  
3 the particular request. If it's a -- if it's a  
4 specific agency of the executive branch, one of  
5 our principal statistical clients, we would work  
6 with that agency to refine the request. What we  
7 were attempting to determine is the least  
8 burdensome way of delivering statistics that are  
9 suitable for the purpose that we're being asked to  
10 produce them.

11 So in that iterative process, would  
12 attempt to identify a technically better way of  
13 addressing the data need. And, generally  
14 speaking, that -- in that iterative process, both  
15 the Census Bureau and the principal client -- all  
16 these data are going to be released for public  
17 use, so the principal client is acting as the  
18 agent of the general public in design of a  
19 product. If there was an agreement that this  
20 particular technical solution will work and it  
21 will meet the needs, then we would -- and then it  
22 would involve a modification or a question -- a

1 new question on the survey, then we would move  
2 forward with the questionnaire design and the  
3 testing that we would normally do, and we would  
4 eventually get to the point where a clearance  
5 package would be sent forward.

6           There might be some other regulatory  
7 barriers. There are lots of -- I shouldn't say  
8 lots of. There are several very specific  
9 categories of data that statistical agencies and  
10 other agencies of the federal government collect  
11 that are governed by regulations of OMB. And so  
12 if the request involved something that inherently  
13 meant you had to modify or update one of those  
14 standards, then that would also come into play.  
15 And those standards are regularly modified and  
16 updated, and there, the Office of the Chief  
17 Statistician takes charge of creating the relevant  
18 working group, preparing the modification, doing  
19 the Federal Register notices on the modifications.  
20 So if you have to modify the standards before you  
21 can produce a survey instrument, then that process  
22 would happen.

1           This would all basically go on  
2 simultaneously, but no OMB clearance package would  
3 be sent to the Office of the Statistician prior to  
4 doing the ground work that the chief statistician  
5 is known to require before she, in this case,  
6 would approve the clearance request.

7           Q     So did I understand you correctly that  
8 the clearance package has not yet been submitted  
9 to OMB with regard to the citizenship question?

10          A     The clearance package for the specific  
11 forms for the 2020 census has not yet been  
12 submitted to OMB.

13 BY MS. SHAH:

14          Q     I'm going to hand you what's Exhibit 14,  
15 and I only have two copies, because they're very  
16 large. I'm going to have this marked as  
17 Exhibit 14, which is statistical quality standards  
18 from the Census Bureau.

19               (Plaintiffs' Exhibit 14, Census Bureau  
20 statistical quality standards, was marked.)

21 BY MS. SHAH:

22          Q     Are you familiar with this document?



1 A Yes.

2 Q Do you follow it?

3 A The Census Bureau conducts its production  
4 of statistical and other information products  
5 according to these standards, yes.

6 Q And who has to follow it?

7 A All -- so it defines the types of  
8 products that are covered by the -- by the  
9 standards. And essentially, all outward-facing  
10 products, which would be official statistical  
11 products, special tabulations, research papers,  
12 the reports of activity -- information summaries  
13 that accompany the releases of principal monthly  
14 indicators and the 2017 ACS when it's released in  
15 September, so both the information products that  
16 are used for the general public and the detailed  
17 information product that you're releasing are  
18 subject to the standards.

19 Q And -- but what I meant was -- I'm sorry  
20 if I was unclear -- was, do all census employees  
21 have to follow the guidelines set forth in this  
22 document?

1           A     So the guidelines are Census Bureau  
2 guidelines, and the employee, in the conduct of  
3 his or her job, when preparing an information  
4 product covered by the standards, that's what I  
5 just explained, would be expected to abide by  
6 standards, yes.

7           Q     And what about the Secretary?

8           A     The Secretary is not bound by the  
9 standards.

10          Q     And we talked about some of the products  
11 that this applies to. Does it apply to the  
12 decennial census questionnaire?

13          A     Yes.

14          Q     And, more specifically, the citizenship  
15 question, as well?

16          A     Yes.

17          Q     So is it fair to say that the  
18 Census Bureau has to follow these standards when  
19 they develop and design survey questionnaires?

20          A     It is fair to say that every information  
21 product and statistical program within the  
22 Census Bureau is expected to follow these

1 standards? Yes.

2 Q And if you can turn to Page 5 of this  
3 document -- and it's a large one, so, you  
4 know -- when we're talking about Requirement A16,  
5 which says that, "Quality control checks must be  
6 performed to ensure the accuracy and completeness  
7 of the program plans including, among other  
8 things, survey designs."

9 Does this requirement apply to the  
10 decennial census questionnaire?

11 A Yes.

12 Q And what does it mean, survey design?

13 A In this -- on Page 5, it has a very broad  
14 interpretation. We might sometimes call it the  
15 lifecycle design, all of the components that go  
16 into executing a -- an information product,  
17 including, to be frank, a case where there's no  
18 actual survey --

19 Q Uh-huh.

20 A -- but it's the design of an information  
21 product.

22 Q And has this quality check been done for

1 the citizenship question?

2 A It is the view of the senior executive  
3 staff at the Census Bureau that the citizenship  
4 question has been adequately tested. It is clear  
5 from the timeline of that -- of the Secretary's  
6 decision that it couldn't have been subjected to  
7 all the testing that the rest of the questionnaire  
8 has been subjected to. The question itself has  
9 been through cognitive testing. The question  
10 itself has been used extensively in the  
11 American Community Survey. We made the decision  
12 when the request from the Department of Justice  
13 came that the only way we could respond to that  
14 request would be to use the pre-existing  
15 American Community Survey question. There simply  
16 wasn't time to engineer the -- a decades' worth of  
17 tests. We thought it would be inappropriate to  
18 tell the Secretary that we cannot put the question  
19 on the census because we have not had a decade to  
20 test it.

21 So our standards permit us, in the  
22 situation where because of either time or

1 budgetary constraints we have to make a decision  
2 to use a question that has not been conducted  
3 in -- tested in the context it's going to be used,  
4 our standards permit that exception.

5 Q Okay. Let's -- I have two follow-ups.  
6 Let's back up. And I understand that you said  
7 that the quality check -- has it been done for the  
8 census questionnaire that includes the citizenship  
9 question? And I'm talking about the census  
10 instrument, questionnaire instrument?

11 A So until just a few weeks ago, the print  
12 version of that instrument didn't even exist in  
13 draft form. It now does. And the Internet  
14 self-response of that instrument won't exist in  
15 draft form until sometime in September. So  
16 instruments that don't exist, can't have been  
17 tested in their complete form.

18 Q But was the 2020 census questionnaire  
19 that was used in the 2018 end-to-end test, had  
20 that questionnaire instrument been subjected to a  
21 quality check?

22 A So that questionnaire was approved -- I'm

1     sorry. Let me -- that questionnaire was designed  
2     and being engineered to include a combined  
3     question on race and ethnicity under a long  
4     negotiation with the Office Of Management and  
5     Budget as to whether or not the 1997 standard for  
6     the collection and publishing of race and  
7     ethnicity data would be modified. It was our  
8     expectation until roughly the end of 2016 that  
9     that standard would be modified in a timely  
10    fashion. The Office of the Chief Statistician had  
11    a working group. The working group had a draft.  
12    The draft had been through multiple revisions. In  
13    anticipation of that draft become the new  
14    standard, we used the research from the decade to  
15    engineer -- to test and engineer a combined  
16    question, and that was the question we intended to  
17    ask on the end-to-end test.

18                 Shortly before December 31st, on December  
19    2st, to be exact, the acting director instructed  
20    the 2020 census staff to replace the single -- the  
21    combined question with a two -- two-question  
22    ethnicity first, race second OMB '97 compliant

1 version. And so over the course of several days,  
2 the Internet self-response instrument was  
3 reprogrammed and the artwork for the  
4 mail-back -- mail-out/mail-back form was modified  
5 to include the two-part question. That two-part  
6 question was taken from the last tested version in  
7 the two-part question in the 2015 National Content  
8 Test. That was all done very quickly and on  
9 direct instruction from the acting director.

10 Shortly after the New Year, the executive  
11 steering committee and the operating committee of  
12 the Census Bureau were informed, and on  
13 January 17th, the Secretary was informed by the  
14 director -- by the acting director.

15 So that's -- so that's a case where the  
16 questionnaire was modified at the last minute and  
17 the specific form that was sent into the field had  
18 never been tested in its complete form. And we  
19 were aware that that's -- that should be unusual,  
20 and it was unusual. However, the explicit  
21 objectives for the end-to-end test were to test  
22 the integration of -- I just memorized these

1 numbers -- for 35 -- no, sorry -- 44 of the 52  
2 systems and 20 of the 35 operations of the census.  
3 We've renumbered them a couple of times and I came  
4 late to the number management. I'll check those  
5 at the break. I'm pretty sure I got them right.

6 So testing the integration of our systems  
7 is a different kind of operational test from the  
8 kinds of controlled trials that we usually do when  
9 we run content tests. This was not a content  
10 test. It had to have content to be a real test,  
11 but it wasn't a content test. It used content  
12 that had been previously tested, although not all  
13 on the same form.

14 Q And then you mentioned that when there  
15 are time constraints, you don't have to  
16 necessarily conduct all of those quality checks.  
17 Do you have to ask for a waiver for that?

18 A It is customary to ask for a waiver.  
19 Sometimes the request for a waiver comes after the  
20 fact.

21 I chair the committee that hears the  
22 waiver requests, and I know there was no waiver



1 request for the end-to-end test. The waiver would  
2 have been granted. And I think the distinction  
3 here between an operational test and a statistical  
4 test is material. The standards do apply to  
5 operational tests, but we do not intend to make  
6 any statistical inferences from the data produced  
7 by the operational test. They're also going to  
8 test data to be evaluated in terms of their  
9 compliance with the layouts, formats and  
10 expectations of the users over what's going to be  
11 in the cells.

12 So the vast majority of the standards are  
13 designed to protect the scientific integrity of  
14 the inferences that you make from the data that we  
15 release. Since we didn't tend to make any  
16 inferences from the end-to-end test like that, I'm  
17 certain the waiver would have been granted, but I  
18 also know it was requested.

19 Q But the quality check isn't done just at  
20 the end -- just as part of the end-to-end test, am  
21 I correct?

22 A Oh, that's right. Yes.

1           Q     So was a waiver for a quality check  
2     obtained in the question -- in this instance?  
3     Sorry.

4           A     So the answer to the question whether a  
5     waiver was obtained for any part of the end-to-end  
6     operation is no.

7                     The question that I heard was, should a  
8     waiver have been obtained because of the quality  
9     variation over the -- over the life of the -- of  
10    the survey? Let me also say that these are  
11    quality standards that bind the agency, but a  
12    sitting director and a sitting acting director can  
13    instruct the staff to do something and they're  
14    expected to do something. And while we would  
15    expect a sitting director or acting director to  
16    check whether there was a standard, there was a  
17    lot of urgency here. So the next methods and  
18    standards meeting would have been after the whole  
19    decision process was made.

20                    But the quality of the process by which  
21    we conducted the end-to-end test was extensively  
22    peer reviewed inside the Census Bureau by the

1 standards -- by the processes that had been put in  
2 place to remain compliant with these standards.

3 Q Again, I want to be clear. I'm not  
4 asking just with respect to the end-to-end test.  
5 I'm talking about the census survey.

6 Does that have to -- for the 2020 census,  
7 was the quality check requirement waived?

8 A There was no need to waive the quality  
9 check requirement for any component of the  
10 end-to-end test, that I'm aware of. The standards  
11 are designed to make sure that we develop and put  
12 in place products that have been properly tested  
13 and then produce data that are suitable for their  
14 use, usually inferences.

15 I agree with you -- I have to agree that  
16 a rapid modification to a survey instrument that  
17 is then put into the field, when the data coming  
18 out of that survey instrument are expected to be  
19 used for inferences is problematic with respect to  
20 these standards.

21 Q Okay. Let's move on to Requirement  
22 A-2.3. I believe it's on Page 8. It says, "The

1 data collection instrument and supporting  
2 materials must be pretested with respondents to  
3 identify problems, e.g., problems related to  
4 content, order, context, effects, skip  
5 instructions, formatting, navigation and edits,  
6 and then refined prior to implementation based on  
7 the pretesting results."

8 Do you agree this requirement is  
9 important and it should be followed?

10 A Yes.

11 Q Do you agree that the order and context  
12 of questions can affect the quality of responses?

13 A Yes.

14 Q And if pretesting -- I'm sorry.

15 And then formatting and navigational  
16 experience of respondents can affect the quality  
17 of responses?

18 A Isn't that what you just asked me?

19 Q Well, I said -- I think that there --  
20 that -- so I think the navigational experience  
21 probably applies more specifically to an Internet  
22 survey instrument.

1           A     Could you read back her precise question?

2                     (Thereupon, the reporter asked counsel to  
3     rephrase.)

4     BY MS. SHAH:

5           Q     So I'm just going to ask both sets of  
6     questions again.

7           A     Would you mind pointing --

8           Q     Sure.

9           A     -- on this page, and be careful of her  
10    coffee.

11          Q     On Page 8, it's right, Subrequirement  
12    A2-3.3.

13          A     Okay.

14          Q     So my first question is: Do you agree  
15    that the order and context of questions can affect  
16    the quality of responses?

17          A     Yes.

18          Q     And that the formatting and navigational  
19    experiences of respondents can also affect the  
20    quality of responses?

21          A     Yes.

22          Q     And then I want to direct your attention

1 towards the bottom of the page where we're talking  
2 about A2-3.3 Number 2C. It's at the very, very  
3 bottom. And it says that, "If pretext" -- that  
4 "it should involve respondents or data providers  
5 who are in the scope of data collection.

6 Pretesting must involve respondents or data  
7 providers who are in the scope of the data  
8 collection, and it must verify that the questions,  
9 among other things, are not unduly sensitive and  
10 do not cause undue burden."

11 So if pretesting had been conducted for  
12 the citizenship question, the pretesting could  
13 have verified that question was not unduly  
14 sensitive?

15 MR. EHRLICH: Objection. Form.

16 THE WITNESS: Testing was conducted for  
17 the citizenship question. I've said that  
18 repeatedly in two depositions.

19 What precise testing are you asking me  
20 about?

21 BY MS. SHAH:

22 Q Well, the -- is it correct that the

1 Census Bureau conducts testing throughout the  
2 decade preceding the decennial census?

3 A Yes.

4 Q Would such testing reveal  
5 whether -- would that be considered pretesting?

6 A Yes.

7 Q And would such testing reveal whether a  
8 question is unduly sensitive?

9 A Yes.

10 Q And if so, responses collected from a  
11 survey or testing aren't used for data production,  
12 would you say that that question can be construed  
13 as unduly burdensome?

Vague; Compound;  
calls for  
speculation

14 MR. EHRLICH: Objection. Form.

15 THE WITNESS: I think you just asked me  
16 if you collect an item and then you don't use it  
17 to tabulate anything, is that undue burdensome?  
18 Yes.

19 BY MS. SHAH:

20 Q And would the Census Bureau run --  
21 typically run pretesting to identify issues with  
22 order, context or formatting?

1 A Yes.

2 Q And did it do so with -- in the context  
3 of order, context and formatting to the  
4 citizenship question?

5 MR. EHRLICH: Objection. Form.

6 THE WITNESS: If you're asking  
7 specifically with respect to the questionnaire for  
8 the 2020 census, no.

9 BY MS. SHAH:

10 Q And if we can go, actually, back a page,  
11 to Page 7, and look at Requirement A2-2, it's at  
12 the top of the page. It begins that -- a plan  
13 must be produced that addresses four different  
14 requirements, and I want to go through each  
15 requirement separately.

16 If -- "The plan must address program  
17 requirements for the data collection instrument  
18 and the graphical user interface or GUI, if  
19 applicable."

20 Does this requirement apply to the 2020  
21 census paper questionnaire?

22 A Yes.



1 Q And to the Internet self-response  
2 instrument?

3 A Yes.

4 Q And was a plan that addressed this  
5 requirement produced?

6 A A plan to address this requirement is  
7 being developed.

8 Q By whom?

9 A The 2020 staff in conjunction with other  
10 parts of the Census Bureau who normally cooperate  
11 with them.

12 Q And when will that plan be completed?

13 A So you can look to the 2020 program  
14 management review where we will present what the  
15 development of the questionnaire in its paper and  
16 Internet self-response form. We will allow our  
17 usual stakeholder groups to comment on them. We  
18 will demonstrate the Internet self-response  
19 instrument. We will demonstrate that nonresponse  
20 follow-up instrument. We will only be able to do  
21 testing within the development of moving into  
22 production for the 2020 census. But the modified

1 forms will be tested to the extent that they can  
2 be in those contexts. The plan is basically the  
3 operational plan for the 2020 census. So as the  
4 components come to readiness -- so we finish the  
5 end-to-end test. We have to process what we  
6 learned in the end-to-end test. We have to bring  
7 the additional operational components into the  
8 integration. As those steps are being completed,  
9 we will make our quarterly presentations on the  
10 progress of the 2020 census, and that includes  
11 progress on designing, testing and implementing  
12 the new form.

13 Q Let me step back. When is this  
14 requirement -- this plan, rather, is it produced  
15 during -- for the decennial census, particularly,  
16 in general, at what period of the planning process  
17 is this plan produced?

18 A So in the -- in the lifecycle of the 2020  
19 census, there have been multiple versions of such  
20 plans. The -- there's an overarching design of  
21 the census which has a plan that says we're going  
22 to try to reduce the cost of address canvassing by

1 doing much more of it in the office. That plan  
2 was laid out very early in the decade. I was not  
3 associated with the 2020 census at the time, nor  
4 management, so I'm not sure exactly, but around  
5 2012 or '13. It was substantiated in the first  
6 operational publication in 2015. I did see that  
7 as of my current role.

8 So as that part of the plan, we had a  
9 plan to promote self-response by developing  
10 Internet self-response. We had a plan to reduce  
11 nonresponse follow-up by integrating  
12 administrative records into the process, and we  
13 had a plan to modernize the dissemination.

14 So those were high-level plans. And when  
15 they go down in the organization, they get  
16 instantiated into very detailed project management  
17 charts. The decennial program operates with  
18 formal review of all of the components of that  
19 plan as they evolve over the course of the decade,  
20 including the addition of the citizenship  
21 question.

22 So the staff in the Census Bureau,

1 associated with the different components of the  
2 2020 census are modifying their research plans,  
3 their implementation plans, their evaluation  
4 plans, incorporating the fact that we have been  
5 instructed to put a citizenship question on.

6 For a small survey, I'd be able to say,  
7 well, the plan was done in May of this month and  
8 then it was reviewed -- it was determined that no  
9 waivers were needed and it was taken into the  
10 field. But that's pretty unusual data product. A  
11 bigger agency does a big data product. So there's  
12 no specific date for these.

13 That was a long winded. Sorry.

14 Q And then the next one is that this plan  
15 has to address supporting materials needed for  
16 data collection.

17 Is that also currently being developed?

18 A Yes.

19 Q And --

20 A And was developed for the end-to-end  
21 test. Was developed for the 2017 test. Was  
22 developed for the 2016 test. Was developed for

1 the 2015 National Content Tests. There were  
2 separate evaluations of all of those materials.

3 Q And can supporting materials include  
4 things like questionnaire instructions?

5 A Yes.

6 Q What about language-assistance materials?

7 A Yes.

8 Q And promotions or advertising materials?

9 A Most of our data collection programs  
10 don't have communication campaigns associated with  
11 them -- special communications. We have an  
12 ongoing one that's the whole Bureau. The 2020  
13 census does have a special communication campaign.  
14 So specifically for 2020, there would be a special  
15 communication campaign being developed.

16 Q And then we've talked a little bit about  
17 this already, but it also has to address the  
18 pretesting of the data collection instrument and  
19 supporting materials.

20 Has that been done here for the 2020  
21 census?

22 A Within the time constraints of the

1 Secretary's decision, the different components of  
2 the 2020 questionnaire have been pretested. They  
3 will get their first test in their presumed form  
4 some time after those forms are ready. It won't  
5 be an extensive field test. We have neither  
6 budget or time for that. The last chance for that  
7 was probably before March of 2018.

8 Q So for the full 2020 census  
9 questionnaire, which would include the citizenship  
10 question, has there been a waiver requested for  
11 this requirement?

12 A So -- we don't think we need a waiver.

13 Q Okay.

14 A And this is not a piece of legislation.  
15 It's operating principles for the agency. So an  
16 example for a census that would request a waiver  
17 is the economic census in 2012. The economic  
18 census is a survey-based instrument. It's not an  
19 enumeration.

20 So the standards say that when you  
21 release the data from an economic census, since it  
22 was a survey, all the data items have to be

1 accompanied by a margin of error. They weren't.  
2 So the 2012 economic census did request a waiver  
3 for that because that's a clear indication from  
4 the Census Bureau that a piece of quality  
5 information that we expect to be produced couldn't  
6 be produced.

7 In this operational context, our  
8 standards allow us to ask the professionals at  
9 Census Bureau in a consensus form, do you believe  
10 this has been adequately tested, given the time  
11 and operational and financial constraints? Our  
12 conclusion is that the citizenship question has  
13 been sufficiently tested to not require a waiver.

14 Q Okay.

15 A The Office of Management and Budget can  
16 disagree, and it can refuse the clearance package  
17 without further testing of the specific form that  
18 we intend to go to field with. That is within  
19 their authority. And were they to do that, we  
20 would, obviously, have to do something in order to  
21 come into compliance. But at the moment, we do  
22 not feel that question needs a waiver for testing

1 reasons.

2 Q So let me ask you a separate question.  
3 Secretary Ross, in his supplemental memorandum,  
4 stated that he began considering the citizenship  
5 question when he first started, and I'm  
6 paraphrasing here. If you had known that, then at  
7 that time, could the citizenship question have  
8 been added to the end-to-end testing?

9 MR. EHRLICH: Objection. Form.

10 THE WITNESS: If the Secretary had asked  
11 us to test the citizenship question in -- after  
12 his arrival in the Department of Commerce, we  
13 could have engineered one into the end-to-end  
14 test, yes.

15 BY MS. SHAH:

16 Q All right. I think we're done with this  
17 document for the moment.

18 We talked a little bit earlier  
19 about -- or you had talked earlier a little bit  
20 about the race and ethnicity question. And is it  
21 correct that the race and Hispanic origin or  
22 ethnicity question for the 2000 census short form



1 changed from the 1990 census short form?

2 A I looked at those this morning. Yes.

3 Q And they changed in that they -- the 2000  
4 census short form changed in that it asked both  
5 the race and ethnicity or Hispanic origin question  
6 for everyone and not just the race question; is  
7 that correct?

8 A Now I'd have to look at the form.

9 Q Let me --

10 A It changed, basically, because the 1997  
11 regulations were in place for the 2000 census.  
12 And one of the reasons why the 1977 [sic]  
13 standards were modified was because of the  
14 difficulties with the race and ethnicity question  
15 on the 1990 census, but I don't remember the skip  
16 logic in the 1990 census.

17 Q I'll give you a document that may help  
18 you refresh your recollection, and I think we can  
19 mark it as 15. And I don't have many copies of  
20 this but let me give that to you.

21 (Plaintiffs' Exhibit 15, Census 2000  
22 brief, was marked.)

1 BY MS. SHAH:

2 Q So if you look at page -- first page,  
3 right column, towards the bottom, it says the --  
4 (Thereupon, the court reporter  
5 clarified.)

6 Q "For Census 2000, the questions on race  
7 and Hispanic origins were asked of every  
8 individual living in the United States."

9 Does that refresh your recollection that  
10 this question was for everybody -- both questions  
11 were for everybody and not just --

12 THE WITNESS: For 2000, I knew that. It  
13 was 1990 I asked you about.

14 BY MS. SHAH:

15 Q No. I'm sorry if I misspoke. Then I  
16 meant just for the 2000?

17 A I knew 2000 was asked of everybody.

18 Q So is it also true for the 2000 census  
19 the placement of the race and ethnicity questions  
20 was changed such that the ethnicity question was  
21 asked before the race question?

22 A The ethnicity question is asked before

1 the race question because of the studies that were  
2 done in the decade in between, yes.

3 Q And then you said that the testing was  
4 done. When was the testing done?

5 A Leading up to the 2000 census, there were  
6 a sequence of content tests designed to refine the  
7 form of the questionnaire. I think it was the  
8 1996 one that did the specific test on the form of  
9 the race and ethnicity question.

10 MS. SHAH: Can we take a -- can we go off  
11 the record and take a quick break?

12 VIDEOGRAPHER: We're going off the  
13 record. The time on the video is 1:59 p.m.

14 (Off the record.)

15 VIDEOGRAPHER: This begins Media  
16 Number 4. The time on the video is 2:21 p.m. We  
17 are on the record.

18 BY MS. SHAH:

19 Q So we were just discussing the 2000  
20 census. I'd like to just talk very briefly about  
21 the 2010 census.

22 Is it true that the Census Bureau

1 considered adding a question on ancestry in  
2 conjunction with the race and Hispanic origin  
3 question for the 2010 census?

4 A It is true that the intercensal tests for  
5 the 2010 census included some experimentation on  
6 ancestry questions -- ancestry components to those  
7 questions, yes.

8 Q And is it true, also, that the  
9 Census Bureau also assessed the use of ancestry  
10 data -- data for editing and imputing missing data  
11 for Hispanic origin and race as part of the 2005  
12 National Content Test?

13 A I will have to ask whether it was part of  
14 the 2005 National Content Test. It is the case we  
15 experimented with information like that for our --

16 (Thereupon, the court reporter  
17 clarified.)

18 THE WITNESS: Our edit and imputation  
19 routines.

20 (Plaintiffs' Exhibit 16, 2005  
21 National Content Test, was marked.)

22 BY MS. SHAH:

1           Q    I gave you Exhibit 16, which is the 2005  
2 National Content Test analysis of the race and  
3 ethnicity question. If you can look at Page 2,  
4 Objective 4.

5           A    Page --

6           Q    Page 2, Objective 4.

7                    So is it true that the Census Bureau  
8 assessed the use of ancestry data for editing and  
9 imputing missing data for Hispanic origin for race  
10 as part of the 2005 NCT?

11          A    Yes.

12          Q    And then -- but the ancestry question was  
13 already part of the long form, correct?

14          A    Nativity, meaning where were you born,  
15 and it has been a component of the answers to the  
16 race question that you can declare your ancestry  
17 in verbatim form. If you're asking me if  
18 there's -- if you're asking me if there's a  
19 specific ancestry battery in the 2000 long form, I  
20 don't remember one. But there are also prompts to  
21 supply additional ancestry information as a part  
22 of the race -- on the paper form. It just says

1 write in here anything else you want to tell us.

2 MS. SHAH: I'm going to, actually, leave  
3 it at that. I'd like to go off the record so we  
4 can switch questioning from another questioner.

5 VIDEOGRAPHER: We're going off the  
6 record. The time is 2:24 p.m.

7 (Off the record.)

8 VIDEOGRAPHER: We're back on the record.  
9 The time on the video is 2:26 p.m.

10 EXAMINATION BY MR. TALIK:

11 Q Good afternoon, Dr. Abowd. My name is  
12 Karun Tilak. I'm counsel for the plaintiffs in  
13 Kravitz, et al., v. United States Department of  
14 Commerce, et al.

15 I just wanted to follow up on something  
16 you said earlier this morning. I think you had  
17 testified that the Census Bureau is obligated to  
18 use available data instead -- where available,  
19 instead of imposing the burden of adding a survey  
20 question.

21 Is that a fair summary of your testimony?

22 A It's close. I said specifically that if

1 we asked a question and then didn't use it because  
2 we had administrative data, that that would be  
3 unnecessary burden.

4 Q Would it be an unnecessary burden if you  
5 had administrative data but you still decided to  
6 ask the question?

7 A So we often have administrative data and  
8 we ask the question. Administrative data and  
9 survey data have different properties. It's a  
10 balancing act.

11 Q When did the Census Bureau begin  
12 preparations for the 2020 census?

13 A Some of my colleagues would answer 1790.  
14 As a practical matter, the staff is put in place  
15 to begin developing preliminary plans at about the  
16 time the current census is going into the field.  
17 And then the office in charge of the 2010 census  
18 was put in place in 2002, I believe.

19 Q So it takes at least a decade to prepare  
20 for the decennial census?

21 A The preparation for decennial census is  
22 continuous and the next one is in preparation

1 before the last one ends, yes.

2 Q And over the course of that time, the  
3 Census Bureau administers a series of tests to  
4 prepare for the decennial census, correct?

5 A In modern history, that's correct.

6 Q Let me clarify. I'm speaking  
7 specifically about the 2020 census as it  
8 administers a series of tests in order to prepare  
9 for the 2020 census.

10 A All right. I thought, initially, you  
11 asked me about the 2010 census. Was that question  
12 also about the 2020?

13 Q About 2020, correct.

14 A The 2020 had an associate director about  
15 the same time as the 2010 census was in the field  
16 and the office was put in place in 2012.

17 Q And now -- approximately how many tests  
18 has the Census Bureau run in order to prepare for  
19 the 2020 census?

20 A '12, '13, '14, '15, '16 and '18, six.

21 Q And some of those years, have there been  
22 multiple tests?



1 A We often lump them together, but yes.

2 Q And did -- was 2017 a year where testing  
3 was conducted?

4 A Yes.

5 Q So, basically, every year since 2012?

6 A Yes. -- wrong -- not 2019. There's no  
7 operational plan test. There will be testing.  
8 There's -- testing is continuous. We're talking,  
9 really, about these formal designed tests that  
10 usually have an RCT component to them, but not  
11 always.

12 Q And why does the Census Bureau run this  
13 series of tests to prepare for 2020?

14 A In a modern business, when you develop a  
15 tool that you're going to use for your flagship  
16 product, you're usually going to use it  
17 continuously. So in a modern business, there's a  
18 continual improvement and implement phase.

19 For the census of population, that tool  
20 is going to be used exactly once. So you can't  
21 guess how you're going to do it. You have to take  
22 the accumulated knowledge from the last times you

1 did it, multiple decades ago, and predict what the  
2 environment's going to be like when you're  
3 starting about a decade forward, and try to  
4 balance the likely budget that you will get.  
5 You'll only know the early part of it. You won't  
6 know the -- with the goals -- the goal has  
7 consistently been the -- an accurate actual  
8 enumeration, but the goals have been expanded. So  
9 the current census also has the goal to collect  
10 the race and ethnicity data that are used to  
11 enforce civil rights laws. So the social goals  
12 have to be incorporated, and they change.

13 So it's -- it -- the Census Bureau  
14 doesn't have the option of using the continuous  
15 improvement model. So it has to simulate that by  
16 having something that is a first roughed out one  
17 and then doing continuous improvement on that and  
18 then scaling it at -- we used to call the test  
19 that we just completed a dress rehearsal. We  
20 don't call it an end-to-end test. You scale it  
21 right after that.

22 Q So these tests help you simulate what the

1 decennial census environment might be like,  
2 correct?

3 A They help you predict the quality of the  
4 instrument and the cost of the operations to  
5 implement it and collect and process the data.

6 Q And would you agree trying to count more  
7 than 300 million people across the country is a  
8 fairly complex undertaking?

9 A Yes.

10 Q So the Census goes through these multiple  
11 years of tests in order to make sure it get things  
12 right for the 2020 census, correct?

13 A Actually, we hold ourselves to a higher  
14 standard. We like to do them better than we did  
15 them last time.

16 Q Because the decennial census is a  
17 once-in-a-decade event?

18 A It is authorized in the Constitution.

19 Q And we discussed testing, at length,  
20 earlier. Is one of the purposes that testing is  
21 used for to develop predictions about field  
22 operations?

1 A Yes.

2 Q And particularly options for --  
3 operations for nonresponse follow-up?

4 A Among other operations, yes.

5 Q And is it okay if I refer to nonresponse  
6 follow-up as NRFU going forward?

7 A I'll recognize it if you call it NRFU.

8 Q Okay. Are the tests used to help  
9 project, for example, staffing levels for NRFU  
10 operations?

11 A They're used to help refine the  
12 projections. They're usually our early on  
13 projections that are based on the most recent  
14 census and then they're refined.

15 Q How are they refined?

16 A So the relevant history is the post-war  
17 history of the census, and that is the era in  
18 which we moved from the primary operational mode  
19 is you send an enumerator into a space that is  
20 defined by a physical area, and you ask that  
21 enumerator to find every domicile or other place  
22 where people can live, and then after finding

1 those domiciles, to count the number of people  
2 that are there and to collect other information  
3 about them.

4 We moved from that mode to asking the  
5 residents of the United States to supply that  
6 information for themselves in a manner that would  
7 allow us to control whether we had received  
8 information about a particular physical address.  
9 So the field operators are different in those two.  
10 There really -- it wasn't really NRFU before there  
11 was NR to follow up.

12 Q So just talking about the 2020 census,  
13 have these tests been used to project the number  
14 of NRFU enumerators that the Census Bureau may  
15 need to hire?

16 A Yes. They have been used along with  
17 other data to do that projection.

18 Q What is the other data that's been used?

19 A Historical practice, feedback from the  
20 field office and tests for the various forms of  
21 the operational control systems.

22 Q And when were those tests for the

1 operations control systems performed?

2 A So every time we do a test, there's an  
3 operational control system. So it's a component  
4 of the data that we gather in order to revise our  
5 estimates of how much effort is going to be needed  
6 at each phase of the census.

7 Q And have these tests over the last  
8 several years also been used to project the number  
9 of census offices that the Census Bureau will need  
10 to open up for the 2020 census?

11 A They have been used to revise the area  
12 census office plan, yes.

13 Q Have these tests been used to test the  
14 adequacy or the amount of training that  
15 enumerators will receive?

16 A Yes.

17 Q And have these tests been used to test  
18 NRFU -- methods of NRFU contact with households?

19 A If I rephrase your question, have they  
20 been used to test a variety of NRFU protocols and  
21 modes, yes.

22 Q Have these tests been used to -- in

1 relation to the census questionnaire assistance  
2 telephone service?

3 A Yes. Not all of them, but some of them.

4 Q Which tests have been used for that  
5 purpose?

6 A So I will have to review which of the  
7 tests included a CQA. That's what we call it,  
8 census questionnaire -- census questionnaire  
9 assistance, which is the telephone component. The  
10 end-to-end test did. The 2015 National Content  
11 Test did. I can't remember whether the 2017 test  
12 did or not.

13 In the next break -- I have notes on  
14 this. I'll just -- fleshed short-term memory, so  
15 I'm not sure. Some of them did and some of them  
16 didn't.

17 Q And is it accurate that the census  
18 questionnaire assistance service is there for  
19 people to ask questions that they might have about  
20 the 2020 census questionnaire?

21 A So the goal of the CQA is to get to the  
22 point where during what we call peak operations,

1 once we mail out the invitation to take the  
2 census, that we would be able to take a call load  
3 that would support a large proportion of the  
4 population making inquiry, expect to actually  
5 enumerate a nontrivial fraction of the household  
6 directly on the CQA.

7 Q By enumerate, you mean get people to  
8 respond to the census over the phone?

9 A The training for the CQA operators is to  
10 ask early on in the contact, would you like us to  
11 just do it right now, and then begin the  
12 telephone-administered instrument.

13 Q And has the testing program for the 2020  
14 census been used to project the call load that  
15 might be expected for that peak operations period?

16 A It has. And so has the question -- the  
17 equivalent operation for the economic census,  
18 which is a field mode.

19 Q Has the testing program since -- the  
20 testing program for the 2020 census been used to  
21 test the role of administrative records in  
22 reducing the NRFU workload?



1 A Yes.

2 Q Now, for -- have any of the tests to date  
3 in the 2020 census testing program, have any of  
4 them included a citizenship question?

5 A No.

6 Q And so none of these tests, to the extent  
7 that they were used to project staffing levels or  
8 to refine the projections, would have accounted  
9 for the citizenship question?

10 A Directly, no.

11 Q Would they have done so indirectly?

12 A Well, we used -- we didn't use evidence  
13 from a test, but we used evidence similar to the  
14 evidence generated in the test to make indirect  
15 inferences. But directly, no.

16 Q What was -- what were the sources you  
17 used for the indirect inferences?

18 A These are the experiments that I  
19 described -- the natural experiments that I  
20 described in my fact witness testimony.

21 Do you want to go through them again?

22 Q Are those the ones discussed in your

1 January 19th memo?

2 A The ones that existed at that point in  
3 time are discussed in the memo, yes.

4 Q And since then, are there any other ones  
5 that have been done?

6 A There are more extensive ones that have  
7 been done in the full version of the technical  
8 paper that was developed after the memo was  
9 written.

10 Q Is that the document that was just  
11 produced to us yesterday?

12 A Yes.

13 Q And besides those two sources, are there  
14 any other -- let me rephrase.

15 Besides the sources discussed in those  
16 two documents, are there any other sources that  
17 you used to develop indirect inferences?

18 A They haven't been used yet, but we intend  
19 to examine the field operation data from the  
20 end-to-end test, because it occurred as the  
21 information about the citizenship question was  
22 becoming public. It's not clear how useful it

1 would be, but that would be another form of  
2 indirect inference. There was no citizenship  
3 question, but there were environmental factors  
4 that intervene.

5 Q Besides that, are there any other  
6 sources?

7 A None that I'm aware of.

8 Sorry. From our test operations.

9 Q And so to the extent that any tests  
10 conducted to date have been used to project the  
11 number of offices that the Census Bureau will open  
12 in 2020, those projections would not have  
13 accounted from the citizenship question, correct?

14 A In general, that's correct, yes.

15 Q And to the extent the tests were used to  
16 test the adequacy or amount of enumerator  
17 training, they would not have accounted for the  
18 citizenship question, correct?

19 A That's correct.

20 Q And the same question with respect to the  
21 testing of NRFU protocols. To the extent that  
22 testing has been used to test the adequacy of

1 those protocols, they would not have accounted for  
2 the citizenship question, correct?

3 A That's correct.

4 Q And the same question with respect to the  
5 census questionnaire assistance. To the extent  
6 the testing was used to develop a projection about  
7 call loads for peak operations, those projections  
8 would not account for the citizenship question,  
9 correct?

10 A That's correct.

11 Q In light of the Secretary's decision to  
12 add the citizenship question, will the  
13 Census Bureau conduct any testing on the impact of  
14 that question on staffing levels?

15 MR. EHRLICH: Objection. Form.

16 THE WITNESS: It's hard to imagine what  
17 kind of testing we might do, other than on a  
18 relatively small scale. However, we are working  
19 closely with the integrated communication  
20 campaign, which the Secretary has recommended  
21 increasing the budget to 500 million. They are  
22 developing messaging and other tools that we fully

1 expect to use, both with the general population  
2 and with specialized groups, like enumerators.

3 BY MR. TALIK:

4 Q But there has been no testing on the need  
5 for -- let me rephrase that.

6 There has been no testing on whether the  
7 citizenship question will require -- require the  
8 Census Bureau to increase staffing levels for  
9 2020?

10 A I think I've already said there hasn't  
11 been in direct testing.

12 Q Sure.

13 A We have the time, from now going forward,  
14 to accumulate additional information. If the only  
15 testing that you mean is randomized controlled  
16 trials, I don't believe there will be one of  
17 those.

18 If you mean the kind of testing that  
19 modern advertising firms do in developing a media  
20 campaign, that's just rolling out, and there's  
21 going to be a lot of that conducted between now  
22 and the start of the media campaign, and we're

1 already using that forum to collect additional  
2 information.

3 Q And what kinds of tests are you referring  
4 to with respect to developing a media campaign?

5 A So in the development phase of that  
6 contract, we conducted the Census Barriers,  
7 Attitudes and Motivators Study, CBAMS, which had  
8 both the survey and the focus group component.  
9 The survey was -- instrument was closed before the  
10 Secretary's decision, so it was not modified. But  
11 the focus group's were not closed. They were in  
12 process when the Secretary made his decision. So  
13 we conducted 42 focus groups and 30 of them were  
14 conducted after the citizenship question was added  
15 to the 2020 census. And the focus group protocols  
16 were modified in a manner that kept them  
17 comparable to the focus group protocols from the  
18 ten that were conducted before that -- to gather  
19 specific information about the effects of the  
20 citizenship question.

21 Q Besides the CBAMS focus groups, are there  
22 other tests that the Census is already doing or

1 plans to do?

2 A So we will small scale test the paper  
3 form, the Internet self-response form, the address  
4 canvas training, the NRFU training, and the other  
5 components that have been modified by the  
6 introduction of the citizenship question. Exactly  
7 the form in which we will conduct those tests and  
8 how much budget we will have to do it is not fully  
9 determined.

10 That testing is not in the lifecycle cost  
11 estimate, other than as it would have occurred  
12 in -- on a routine basis. So every new version of  
13 the Internet self-response instrument gets tested  
14 and every new version of the paper form gets  
15 tested, but they don't all get the full battery of  
16 tests we've discussed, which tests haven't  
17 occurred to date on those forms.

18 Q Just to clarify, has the Census Bureau  
19 committed to doing these tests or is it a question  
20 of how much budget is available?

21 A You will see in the overall plan that in  
22 this phase, when we -- when we finish integrating

1 the systems and we ramp them to scale, that there  
2 are testing phases. We envisioned them testing a  
3 substantially complete instrument, but they'll now  
4 be testing an instrument that has had a major  
5 revision and we will use that opportunity to learn  
6 about that revision. We will probably not conduct  
7 a randomized controlled trial in that set up  
8 because that involves modifying those same  
9 operational control systems in order to be able to  
10 do it, and that's precisely why Acting Director  
11 Thompson asked the American Community Survey  
12 Office to see what such a thing would cost,  
13 because that doesn't involve intervening in the  
14 scaling of the operational.

15 But there's all kinds of testing periods  
16 in there, in both the software development cycle  
17 and the hardware or paper development cycle. We  
18 will use those testing periods to get experience  
19 with the instrument and to do the kinds of  
20 qualitative testing that's feasible in that  
21 environment. And the cost for that is in the  
22 budget. It would be modifications like



1 randomization something -- randomization is  
2 surprisingly more expense than you realize,  
3 including me when I first got into a position  
4 where I could randomize.

5 Q Besides CBAMS, is there a specific test  
6 for which the form has been decided that the  
7 Census Bureau will undertake related to the  
8 citizenship question?

9 A Not that I'm aware of.

10 Q And when does the Census Bureau intend to  
11 make a decision about the form of these tests?

12 A So what has happened is the different  
13 components of the Census Bureau with expertise in  
14 this, have been consulting with the operational  
15 program attempting to provide them with feedback  
16 on how this kind of -- this kind of testing can be  
17 done without disrupting the timeline. That's a  
18 good question to pose at a quarterly program  
19 management review. Because when you do, then from  
20 out of the woodwork come the different ways in  
21 which that has happened. I'm not aware of any  
22 specific way in which that has happened

1 immediately, but I am aware of the conversations  
2 that happened and the oversight that occurs with  
3 those conversations. So when people propose that,  
4 then their plan gets rush vetted. So I expect to  
5 see modifications to the testing procedures so  
6 that we can make sure that the -- the things that  
7 are under our control get more testing.

8 Q But, so far, there has been no outcome of  
9 that consultation in terms of a specific testing  
10 plan for the citizenship question?

11 A So far, the results from the CBAMS focus  
12 groups have been directly fed back to decennial,  
13 and the new training materials are being developed  
14 and those are an input to them.

15 So although we have to work fast, we're  
16 not so bureaucratic that we can't process new  
17 information when we get it. We have to have the  
18 opportunity to get it. The CBAMS focus groups  
19 were the opportunity -- the first opportunity to  
20 get some fresh information.

21 Q Now, independent of testing, does the  
22 Census Bureau intend to increase staffing levels

1 for the 2020 census in light of the citizenship  
2 question?

3 A That decision hasn't been made. We do  
4 believe that the baseline nonresponse follow-up  
5 staffing levels won't be sufficient. And we have  
6 a projected incremental cost that is within the  
7 contingency for the field operations, but the  
8 precise control of the contingency fund will  
9 depend on the form of the '19 and '20  
10 appropriations --

11 (Conference call interruption.)

12 THE WITNESS: I think -- I had  
13 it -- could you read me back the last thing I  
14 said, please?

15 (Thereupon, the reporter read the record  
16 as requested.)

17 THE WITNESS: In the 2018 appropriation,  
18 the Secretary directly controls the \$50 million  
19 contingency. So he will have to release to us  
20 some of that money to cover incremental costs  
21 incurred in this fiscal year. And however the  
22 appropriation is written in '19 and '20 will

1 determine what process we have to go through to  
2 get funds from the contingency released.

3 I don't have direct experience with the  
4 way that happened in 2010, but most of those  
5 contingencies were never released, so it might be  
6 the case that no one had to ask, how do we get the  
7 contingency released? But I believe there was a  
8 known process in 2010. There will be a known  
9 process for the 2020 census, but that's going to  
10 be embodied in the Appropriations Act.

11 And so if it is the current process, the  
12 way the '18 appropriation is written, then we  
13 would go to the Secretary and say the nonresponse  
14 follow-ups are running past budget. We need an  
15 extra allocation, and he would have the authority  
16 to release that allocation from the contingency  
17 fund. In the current lifecycle cost estimates,  
18 the contingency fund for the field portion of the  
19 census is over \$400 million.

20 BY MR. TILAK:

21 Q And you said he would have the authority  
22 to release those funds. Would he be required to

1 do so?

2 A So if you mean legally required, I'm  
3 going to decline to answer.

4 Q Do you know for 2010 whether he was  
5 required to release contingency funds?

6 A I will check on the next break. I  
7 believe the director had the authority to release  
8 the funds in 2010, but I'm not certain.

9 Q And you mentioned an estimate of the  
10 incremental costs. Was that the \$27.5 million you  
11 calculated?

12 A That was the estimate on January -- in  
13 January of this year. Our current estimate is  
14 91.2 million.

15 Q And is there a document that contains  
16 that estimate?

17 A You got it last night.

18 Q And I think you mentioned that as of now,  
19 your belief is that current NRFU operations are  
20 insufficient. Did I get that right?

21 A What I said is I believe we will need  
22 additional NRFU resources based on current

1 research, yes.

2 Q And those would be resources you would  
3 have to ask the Secretary for under the  
4 contingency program you described?

5 A Under the current management of the  
6 contingency funds for the 2020 census, the  
7 Secretary has the authority to release them.

8 Q Does the Census Bureau have any plans to  
9 increase the number of census offices it will open  
10 in 2020 in light of the citizenship question?

11 A The area census office plan has not been  
12 revised.

13 Q Are there plans to revise it?

14 A Not that I'm aware of. The agency's  
15 answer to that question is no.

16 Q Is there a final date by which the 2020  
17 census questionnaire has to be finalized?

18 A The agency's answer to that question is  
19 we expect to finalize the questionnaire by June of  
20 2019, the paper form. That's the -- in current  
21 operational plan, that is the due date -- the due  
22 month for the final artwork.

1 Q And is that the date on which printing of  
2 the questionnaire will begin?

3 A When you deliver the final artwork, then  
4 the printer starts to implement it.

5 Q And is that also the same month in which  
6 you would have to finalize the Internet  
7 self-response instrument?

8 A There is more flexibility for the  
9 Internet self-response instrument. So we  
10 don't -- sorry. I'm blanking. There's an  
11 industry term for the software development system  
12 that we're using for the software components of  
13 the 2020 census, and it will come into short-term  
14 memory, but it probably will by the time I finish  
15 this answer.

16 In that timeline, what would happen if  
17 we -- in that timeline, the instrument will be in  
18 the form where we expect to be able to scale it  
19 after the sprint that ends in the middle of  
20 September. So that means that the software is in  
21 its -- in the form in which you then move into  
22 test readiness and then production. So -- but it

1 was also like that well before the end-to-end  
2 test, and we were able to modify it on short term.  
3 So the modification of software can be done under  
4 different contingencies. The modification of the  
5 print can be done under different contingencies,  
6 too.

7 Q Can you expand on that, modification  
8 based on contingencies?

9 A Well, if the 2019 or 2020 budget is  
10 passed, instructing us to modify the paper form  
11 and funding that modification, then we will modify  
12 the paper form and the Internet self-response form  
13 and meet the schedule. We can be instructed by  
14 law to change something, even on a very short  
15 notice -- most things can be changed on short  
16 notice if they're adequately funded.

17 But in the current lifecycle cost  
18 estimate and with the current schedule, we expect  
19 to finalize the print form in June of 2019 and  
20 send it to the printer, and we expect to have the  
21 internet self-response instrument in software test  
22 form, meaning ready to be integrated into the



1 system, in the middle of next month.

2 Q Going back to the paper questionnaire,  
3 under the current budget, if there are changes to  
4 the paper questionnaire after June of 2019, would  
5 that impair the Census Bureau's ability to timely  
6 administer the 2020 census?

7 A Without appropriate funding adjustments?

8 Q Under the current cost estimates and  
9 budget?

10 A Under the cost estimates and budget, yes.

11 Q Has the Bureau developed an estimate for  
12 how much additional funding it would need to  
13 timely administer the 2020 census if the  
14 questionnaire is modified after June of 2019?

15 A We do not have well-articulated lifecycle  
16 cost estimates for such a contingency.

17 Q And for the Internet self-response  
18 instrument, is there a drop-dead date by which it  
19 has to be finalized in order to timely administer  
20 the 2020 census under current cost estimates and  
21 budget?

22 A Under current cost estimates, it should

1 go into test readiness preparation in  
2 mid-September, get the appropriate scaling tests  
3 that are planned for the next several months after  
4 that and then go into the production environment.

5 Q And is that September of 2019 or 2018?

6 A That's next month, yeah.

7 Q September 2018?

8 A Yeah.

9 Q So under current cost estimates, if the  
10 Internet self-response instrument was changed  
11 after next month, the Census Bureau would need  
12 additional funds in order to be able to timely  
13 administer the 2020 census?

14 A What we would have to do is adjust the  
15 timing of the lifecycle cost estimate. Again,  
16 there are contingency funds.

17 And so, perhaps, I should clarify my  
18 earlier answer. When we say within the budget, we  
19 mean without going into the contingency. Whenever  
20 you go into the contingency, then you do what it  
21 takes. We do not think that modifications of the  
22 Internet self-response instrument would take us

1 outside of the contingencies, but they would take  
2 it outside of the planned budget.

3 Q How much is that contingency fund?

4 A So I only reviewed how much it was in the  
5 overall and the -- in the peak field operations,  
6 it's just over 400 million, and, overall, I  
7 believe it's about 1.2 billion. It might be  
8 1.5 billion. I will check that.

9 Q And you said the current estimate for  
10 additional NRFU operations was 92.1 million?

11 A 91.2 million.

12 Q Got it backwards. I apologize.

13 And you said for the paper questionnaire,  
14 the Census Bureau does not have a well-articulated  
15 number for the additional costs if a citizenship  
16 question -- if the questionnaire was modified  
17 after June of 2019, correct?

18 A If it's modified after our -- after we  
19 send artwork to the printer, we do not have a  
20 well-articulated cost estimate.

21 Q And does the Census Bureau have a  
22 well-articulated cost estimate for the increased

1 cost if the Internet self-response instrument is  
2 changed after next month?

3 A We don't have a well-articulated one, but  
4 we actually -- that would be easier to do, because  
5 that's similar to what happened to the --  
6 actually, we changed the print form for the  
7 end-to-end test with the scales. The scale is so  
8 different for the end -- the scale is not the  
9 issue with changing the Internet self-response  
10 program. It's the sequence of tests you put new  
11 software through before you deploy it.

12 Q Right. But as of now, there's no  
13 specific estimate --

14 A That's right.

15 Q -- of any of those costs?

16 Is there a deadline by which the  
17 Census Bureau needs to translate materials for the  
18 2020 census into foreign languages?

19 A So all the deadlines that we're talking  
20 about for the final preparation of the print form  
21 apply to the languages we're going to have on the  
22 print form, and that's just English and Spanish.

1 All of the deadlines associated with the Internet  
2 self-response instrument -- I've been discussing  
3 the ones for the English language. The ones for  
4 the 12 languages that will be implemented in are  
5 on a different schedule, but I don't know it  
6 offhand.

7 Q Is that deadline later than June of 2019,  
8 do you know?

9 A So the translation occurs simultaneously,  
10 but the implementation in all of the languages  
11 doesn't occur simultaneously.

12 Q Is there a deadline by which the  
13 Census Bureau needs to finalize materials for  
14 enumerator training for the 2020 census?

15 A Yes.

16 Q What is that deadline?

17 A I don't know, but it's in -- it's in the  
18 operational plan. I'll look it up for you.

19 Q Is that --

20 A Most of these deadlines are in the  
21 late -- Version 3 of the 2020 operational plan,  
22 which is a very long document that I do not have

1 memorized.

2 Q You mentioned that was Version 3. Do you  
3 know when that was published?

4 A Late 2017.

5 Q Is there going to be an updated  
6 operational plan released?

7 A I'll ask that question. I don't know.  
8 But there is an answer to that question.

9 Q And so the various deadlines that the  
10 Census Bureau needs to meet are contained in that  
11 operational plan, correct?

12 A The timeline is, yes.

13 Q Switching gears a little bit. When  
14 someone fails to self-respond to a census  
15 questionnaire, the Census Bureau has certain other  
16 methods of getting that information, correct?

17 A Yes.

18 Q NRFU is one of those methods?

19 A NRFU is the generic term for all of the  
20 methods that we use when we don't get a  
21 self-response. When we don't get a self-response  
22 to the contacts that happened before, we turn on

1     NRFU -- we sometimes -- we do get self-responses  
2     after NRFU, too, and we still call them  
3     self-responses.

4             Q     Sure.

5                     So is visits by an enumerator to a  
6     household that has failed to self-respond one of  
7     the methods that the Census Bureau can use to  
8     enumerate that household?

9             A     Yes.

10            Q     Are proxies another method the Bureau can  
11     use to enumerate a household?

12            A     Proxies are part of the protocol when the  
13     field enumerator visits a domicile -- housing  
14     unit. The field enumerator is instructed to try  
15     to get someone who lives there to answer the form.  
16     And then on the third or more try, failing that,  
17     to get someone nearby who says that they had  
18     information about people who live there and to get  
19     as much information from that proxy respondent as  
20     the proxy respondent is willing to provide.

21            Q     So a proxy is only sought out after an  
22     enumerator can't reach someone in a household

1 after three tries?

2 A So the protocol that I know is protocol  
3 that was in place for the end-to-end test. These  
4 protocols do get revised, but the protocol that  
5 was in place for the end-to-end test is that when  
6 the enumerator was being assigned to the third  
7 visit or more at a household, that -- that  
8 follow-up visit was proxy enabled. So the  
9 instructions said if you fail, try to find a  
10 proxy.

11 Q In addition to NRFU -- in addition to  
12 visits by an enumerator to a household or proxies,  
13 are administrative records another method that can  
14 be used to enumerate a household?

15 A Yes.

16 Q And, finally, is whole person imputation  
17 a method that can be used to enumerate a  
18 household?

19 A Whole person imputation is done in  
20 conjunction with the NRFU determination of  
21 occupancy status.

22 Q Can you clarify by what you mean by that?



1           A     It's a part -- it's a part of the field  
2     operation to determine whether an address exists,  
3     and if it exists whether anybody -- whether  
4     anybody could live there. So it should be  
5     classified as a housing unit, not something else.  
6     And then whether anybody does live there. And the  
7     nonresponse follow-up will include an enumerator  
8     determination or sometimes an  
9     enumerate- -- administrative record determination  
10    of vacant or occupied. If that's all we know,  
11    then there are whole person imputations.

12               In addition, if all we know is the count,  
13    then there are whole person imputations for the  
14    characteristics of those people. But we only  
15    impute the count when the only piece of hard  
16    information we have is occupancy status.

17           Q     And so you would impute if you know that  
18    a unit is occupied but you don't know how many  
19    people live there or any other characteristics of  
20    those people?

21           A     That's correct. Yes.

22           Q     And that would only occur if those people

1 had not self-responded or you could not enumerate  
2 them through a household visit or through proxies,  
3 correct?

4 A So that occurs after the sixth, in the  
5 current protocol, nonresponse follow-up. The  
6 enumerator is charged with getting any credible  
7 information about whether somebody lives there or  
8 not.

9 Q Now, besides those methods that we just  
10 discussed, household visits, proxies,  
11 administrative record, and imputations, are there  
12 any other methods that the Census Bureau uses to  
13 enumerate a household that has not self-responded?

14 THE WITNESS: Could you read it back to  
15 me, please?

16 (Thereupon, the reporter read the record  
17 as requested.)

18 THE WITNESS: No.

19 BY MR. TILAK:

20 Q And you mentioned that the maximum number  
21 of household visits was six; is that right?

22 A In the current protocol.

1 Q And is that the same maximum number of  
2 visits across the country?

3 A So the training protocol is the same, but  
4 in the actual operations of a census, the area  
5 supervisors have discretion. And that discretion  
6 extends to sending an enumerator out for an  
7 additional visit but it also extends to sending  
8 multiple enumerators to the same place. So at  
9 that point, you don't actually know which contact  
10 visit that is until the enumeration of the field  
11 data comes back in.

12 Q Has the Census Bureau made any decisions  
13 as to where additional visits might be warranted?

14 A No decisions have been made.

15 Q And that's in the discretion of the  
16 supervisors in the field; is that right?

17 A Well, the first thing we're going to do  
18 is take the data from the end-to-end test and  
19 evaluate the efficiency of the field operational  
20 control system and the field performance. Those  
21 data may suggest modifications. Other analysis  
22 possibly engendered by the presence of the

1 citizenship question may make modifications.

2 Those modifications will have to be made  
3 relatively soon. The field operations actually  
4 start with address canvass and address canvases  
5 start next summer. So we don't have a lot of  
6 time. But the final forms of the training  
7 materials and the final onboarding of those  
8 activities hasn't happened. So we do have the  
9 scope to make modifications, and we are intending  
10 to analyze the data from the end-to-end test and  
11 other data as they became available to us in order  
12 to optimize that.

13 Q And the end-to-end didn't test  
14 citizenship, right?

15 A There was no citizenship question on the  
16 form.

17 Q And these additional data you mentioned  
18 with respect to citizenship, those are possible  
19 small scale tests that the Census might do, right?

20 A What I said was that the focus groups  
21 from CBAMS were small scale tests and the in place  
22 testing of instruments would necessarily be small

1 scale. We do not have budget for a field  
2 experiment -- a field evaluation of a new  
3 instrument.

4 Q And you said besides CBAMS, the form of  
5 any additional test has not been decided, correct?

6 A That's right.

7 Q Now, are the area supervisors who have  
8 discretion to use additional visits, are they  
9 guided by any criteria?

10 A One of the goals for the 2020 census was  
11 to reduce field costs, primarily through using a  
12 modern vehicle scheduling system, so that's what  
13 we implemented. We have a modern vehicle rooting  
14 [sic] system at the heart of the operation -- the  
15 field operation control system. We call it the  
16 optimizer. And the optimizer performed very well  
17 in the end-to-end test. So that will give us  
18 scope to rely on the optimizer to get what amounts  
19 to the easy part of nonresponse follow-up done  
20 quickly and at low cost. It won't change our  
21 budget for nonresponse follow-up, so it will give  
22 us some scope to focus efforts where when we're in

1 the field monitoring the actual data, we can  
2 detect variation from our expectation and we can  
3 focus the resources there. It gives us the  
4 capability to spend the money in the areas that  
5 demonstrate they're problematic, rather than  
6 having to plan to spend the money in the areas  
7 that we think will be problematic. Those are  
8 sometimes correlated and sometimes not.

9 Q And as of now, the Census Bureau doesn't  
10 know which areas will be problematic, correct?

11 A So we use a tool called the planning  
12 database that tells us historical estimates of low  
13 response rate areas. And we are certainly using  
14 that tool, and our targeted advertising campaign  
15 is using that tool. But those are historical  
16 data. We can't incorporate realtime field data  
17 until there's a realtime field operation going.

18 Q And you said a household would be  
19 eligible for proxy enumeration after three visits;  
20 is that right?

21 A I did say that. We were discussing  
22 various protocols. A household is actually

1 eligible for proxy enumeration via administrative  
2 records after one visit. So we call that an  
3 administrative record enumeration, and,  
4 technically, a proxy enumeration is where a  
5 neighbor filled it in and administration record  
6 enumeration is where these ad recs filled it in,  
7 but they're doing the same thing. They're  
8 substituting for self-response with a different  
9 form of enumeration, and they're eligible after  
10 one visit.

11 Q What records would be used to enumerate a  
12 household --

13 A The final decision on that has not been  
14 made. I prepared to describe the protocol to you,  
15 but the final decision on how the elements of the  
16 protocol will be substantiated has not been made.

17 Q If you could describe the protocol, that  
18 would be great.

19 A So in the protocol, we operate under a  
20 data sharing agreement with the Internal Revenue  
21 Service to incorporate tax returns and other  
22 information -- individual and household

1 information returns, along with administrative  
2 records from the Social Security Administration,  
3 from Medicare, from the Bureau of Indian Affairs  
4 and a few other sources, but I've hit the major  
5 ones.

6 From those records, we build an image of  
7 the household that we project to census date,  
8 April 1, 2020. And then we use more realtime  
9 information, like information returns from the  
10 current tax year and the U.S. Postal Services  
11 address sequencing file to isolate those addresses  
12 which we think are actually occupied by that  
13 household of persons around the census days for  
14 the test, that was April 1 of 2018.

15 When we determine that we have accurate  
16 information -- so we consider the self-declaration  
17 on income tax return for the household one source  
18 of accurate information, declaration of  
19 dependencies and other federal programs like  
20 Medicare, another source of information -- we  
21 determine that we have a household roster for that  
22 address, we then find a second -- and this is



1 current protocol -- federal source for every item  
2 on it, and we replace all the tax items with that  
3 source. If it wasn't a tax item, we compare the  
4 two sources and choose one according to protocol.

5 What we now have is an administrative  
6 record enumeration of that household that does not  
7 depend on tax data. We copy that into the ad rec  
8 area of the 2020 census, and that is a household  
9 candidate enumeration -- candidate record for  
10 ad rec enumeration.

11 If in the operations of the census that  
12 address, MAFID, doesn't have a response, then it's  
13 triggered for nonresponse follow-up, and under the  
14 current protocol, a field enumerator goes to that  
15 address and attempts to get an interview. If that  
16 first nonresponse visit comes back unsuccessful,  
17 then the ad rec becomes the enumeration and the  
18 NRFU for that MAFID is turned off.

19 Q Is there a minimum quality requirement  
20 for that administrative record -- let me rephrase.

21 Is there a minimum quality requirement  
22 that the administrative record must meet before it

1 can be used to enumerate a household after just  
2 one household visit?

3 A Yes. There are multiple cutoff criteria  
4 that have been honed over the course of the decade  
5 and will probably be honed again from the  
6 end-to-end test.

7 Q And none of those tests have been used to  
8 hone these quality requirements, including the  
9 citizenship question, correct?

10 A That's correct.

11 Q What proportion of the NRFU population do  
12 you expect can be enumerated through  
13 administrative records?

14 MR. EHRLICH: Objection. Form.

15 THE WITNESS: In the current lifecycle  
16 cost estimate -- I'm going to check this on the  
17 break, because I actually know this is true for  
18 Version 2 but I'm not sure it's true for Version 3  
19 -- that was 6 million households we expected to be  
20 able to enumerate with ad recs.

21 BY MR. TILAK:

22 Q Has any research been done on the

1 differential availability or quality of these  
2 records for households with noncitizens compared  
3 to the U.S. population generally?

4 A The research that has been done is  
5 germane to that question, not necessarily because  
6 it's specifically looking at a citizenship  
7 variable, but one of the things that matter is  
8 quality of the personal identifying information in  
9 the ad recs. And people who file income tax  
10 returns on time, in particular, are much more  
11 likely to have useable PII. And that PII is the  
12 language we were talking about in the early part  
13 of this deposition verified -- it's audited by the  
14 Internal Revenue Service. So we know the  
15 characteristics of that subpopulation are much  
16 more likely to be citizens, but that's not  
17 specifically using the citizenship variable. It's  
18 just announcing that a characteristic of the way  
19 we created the administrative record eligible  
20 enumerations is going to favor citizens.

21 Q So these indicative --

22 A I didn't mean favor. I'm very

1 sensitive -- is going to more likely select  
2 citizens.

3 Q So is that indicative that administrative  
4 records meeting the Census Bureau's quality  
5 requirements are more likely to exist for citizens  
6 than for noncitizen households?

7 A They are more likely to exist for persons  
8 who file -- persons and households that file an  
9 income tax return, and that is more likely to be  
10 the case for higher income people who are more  
11 likely to be citizens.

12 Q How about for racial and ethnic  
13 minorities, for example, Hispanics?

14 A So this is the reason why we use Medicare  
15 records, because that -- that is nearly exhaustive  
16 for the population over age 65. But, again, it's  
17 only if you have a Social Security number that  
18 you're going to be eligible. So you have to be  
19 eligible for social benefits in the United States,  
20 and some noncitizens are and they're going to be  
21 in those records. They're also often eligible for  
22 State programs. And we did a plan to assemble

1 State records, but that's what's been evaluated  
2 before we finalize which kinds of records we're  
3 going to use.

4 We're making a push to require SNAP  
5 records, Supplemental Nutrition Assistance Program  
6 records, and we don't have them for every state,  
7 and we need to make a decision about whether --  
8 sufficiently complete that we will go forward.  
9 That decision hasn't been made.

10 Q Returning, briefly, to proxy enumeration.  
11 Will the default of three visits before proxy  
12 eligibility apply across the country?

13 A It -- well, the answer is in the current  
14 design, yes. But then I will say, again, that  
15 field staff have the authority from the very first  
16 visit to pile on, so they -- they can redeploy  
17 enumerators if they -- for example, if they  
18 deployed one early on in the process and our  
19 quality evaluation of that enumerator's work is  
20 going to cause that enumerator not to get any more  
21 work, the field staff can redo some of that.

22 And we do continuous quality control on a

1 sample, so that's going to involve additional  
2 visits, as well.

3 The six visits is the operational  
4 guideline and the training and the expectation,  
5 but the discretion of the field staff and the  
6 discretion of the operational staff back at the  
7 census headquarters can modify that, even if the  
8 protocol was not officially modified.

9 Q And to date, are there any guidelines for  
10 varying the number of visits before proxy  
11 eligibility?

12 A I believe that there are not, but I  
13 believe that will be part of the end-to-end test  
14 evaluation, whether we should modify that.

15 Q And, again, end-to-end did not include  
16 the citizenship question, correct?

17 A That's correct.

18 Q Dr. Abowd, in the memos that you wrote --  
19 is that correct?

20 A That I supervised the preparation of.

21 Q That you supervised the preparation of,  
22 is it accurate that you found evidence of a lower

1 self-response rate in households with at least one  
2 noncitizen as a result of the citizenship  
3 question?

4 MR. EHRLICH: Objection. Form.

5 THE WITNESS: With respect to your  
6 question up to the phrase as a result of the  
7 citizenship question, yes.

8 As I explained in my previous deposition,  
9 this was a natural experiment and not a randomized  
10 controlled experiment, and so what you can test is  
11 what you have. So in our work that you're talking  
12 about, the two groups were everyone in the  
13 household is a citizen, according to  
14 administrative record, versus at least one person  
15 in the household is not a citizen, according to  
16 administrative records. There's a third ground  
17 that wasn't analyzed. That's everybody else.  
18 That's the group where there's a 5.1 percentage  
19 point difference between their self-response for a  
20 form that includes the citizenship question versus  
21 a form that does not. But that form that included  
22 the citizenship question also included other

1 questions.

2 BY MR. TILAK:

3 Q Is natural experiment an accepted method  
4 of research in social science?

5 A Yes.

6 Q Do you believe a decline in self-response  
7 rates in households with at least one noncitizen  
8 will result in a higher undercount for noncitizen  
9 households?

10 A We don't have any evidence to suggest  
11 that hypothesis is true.

12 Q Do you have any evidence to suggest the  
13 hypothesis is false?

14 A No.

15 Q So you just don't know, one way or the  
16 other?

17 A No. We think we know. We believe that  
18 the net undercount -- I put the net before your  
19 undercount, but I'm putting it there  
20 exclusively -- that the net undercount depends  
21 primarily on the energy and efficacy of the  
22 nonresponse follow-up efforts. That is a lesson



1 learned over multiple censuses where we have  
2 beaten that net undercount down by perfecting  
3 processes that get at least some information about  
4 the house- -- household -- housing unit.

5 The critical piece of information is how  
6 many people live there. So if you can determine  
7 that, then the rest of what's happening is you  
8 don't know anything about them, so the quality of  
9 the analyses you're going to do on anything other  
10 than the population count is affected.

11 And truth in discussion, we know that  
12 there's a differential in that undercount. We  
13 make active efforts to abate that, and we have no  
14 evidence that the differential undercount is  
15 related to the presence of a citizen question, but  
16 it is related to the macroenvironment when you  
17 conduct the census. And that's not something you  
18 can do a randomized controlled trial on.

19 Q Are you aware of any analysis or research  
20 looking at the relationship between self-response  
21 and undercount?

22 A Again, net undercount, no.

1 Q Net undercount, I will clarify that.

2 A Net undercount, no. And in preparation  
3 for this deposition, I asked every expert at the  
4 Census Bureau that explicit question, and I'm  
5 responding with the agency's answer.

6 Q And is there any plans to conduct such an  
7 analysis of the relationship between self-response  
8 and net undercount in preparation for the 2020  
9 census?

10 A Instead of just answering, no, I'm going  
11 to explain why the answer is no.

12 Q Please do.

13 A That's a hard analysis to do on the net  
14 undercount because of the way the net undercount  
15 has to be estimated. It's not estimated household  
16 by household with record level data, which is how  
17 we performed the experiments that are documented  
18 in the technical papers you've gotten, and how  
19 components of the census quality are analyzed,  
20 because we have record-level information due to  
21 the post-enumeration survey.

22 Net undercount is evaluated using two

1 alternative estimates of the total population.  
2 One is developed by what's called demographic  
3 analysis and we only do that at a national level,  
4 although we do have some subnational controls in  
5 the demographic analysis, and the other is done by  
6 the dual-system estimation and we -- in the  
7 1990s -- for the 1990 census and for the 2000  
8 census, we did attempt to implement a dual-system  
9 estimation that would be capable of doing accurate  
10 dual-system estimation below the state level. But  
11 our current dual-system estimator is only accurate  
12 at the national. The state level estimates for  
13 the dual-system estimator are what statisticians  
14 call synthetic, what econometricians call  
15 estimated.

16 Q And earlier you had said that the ability  
17 to abate the undercount depends on the energy and  
18 efficacy of nonresponse follow-up; is that right?

19 Has the Census Bureau developed a budget  
20 of how much it would need to increase its  
21 nonresponse follow-up to address any decline in  
22 self-response as associated with the citizenship

1 question?

2 A So we have not yet formally modified any  
3 budgets. The \$91.2 million estimate that I gave  
4 you earlier is our current -- we should start  
5 there, because that's a conservative estimate. It  
6 assumes that households that are all citizens are  
7 going to respond the same way they would have  
8 responded in earlier surveys, and they may not be  
9 true either.

10 Q Yeah. What is the basis for that  
11 assumption, that households will respond in the  
12 same way as before?

13 A In social science, that's called the  
14 counterfactual. There's no basis for it. I state  
15 it because that's a maintained hypothesis that the  
16 other -- the hypothesis under test can be compared  
17 to. So if you don't make an assumption about the  
18 component of the hypothesis that you can't test,  
19 you can't interpret the component of the  
20 hypothesis you can accept in a randomized  
21 controlled trial.

22 So in a natural experiment, you have to

1 accept which things you can estimate and which  
2 things you have to make a hypothesis on. So  
3 making the hypothesis that households that contain  
4 all citizens won't change their response behavior,  
5 it's not making the prediction that they won't  
6 change their response behavior. It's allowing you  
7 to interpret the 5.1 percentage points or now it's  
8 5.8 percentage points, and apply to a larger base  
9 in a proper manner. That's why I say it's  
10 probably an underestimate, because it's probably  
11 not a reasonable hypothesis that the households  
12 that are all citizens won't change their behavior,  
13 but we don't have any evidence.

14 Q So it's your view that that's not a  
15 reasonable hypothesis but it's the assumption?

16 A It's not a reasonable projection, let me  
17 say that.

18 Q But it's the assumption that you had?

19 A It's not a reasonable projection. It is  
20 the assumption in that analysis for the purposes  
21 of generating that budget number.

22 Q And if it's not a reasonable hypothesis,

1 is it a reasonable assumption?

2 A Sorry. You keep changing my words. I  
3 keep changing them back. I said you have to make  
4 a hypothesis, and it's the one we made. It's not  
5 a reasonable projection. That is to say, if you  
6 ask us collectively do we think that the  
7 self-response of all citizen households is going  
8 to stay changed in an environment where a  
9 controversial citizen question is on the census,  
10 we would say no, we expect that their cooperation  
11 would be expected, too. But we don't have any  
12 scientific evidence to do the sign or the  
13 magnitude of that, and we can't rule out the  
14 hypothesis that they would be more cooperative.

15 Q Is there any empirical evidence that they  
16 would be more cooperative, that you're aware of?

17 A I'm not aware of any empirical evidence  
18 for either side of it. I have consistently said  
19 that it was maintained or a counterfactual  
20 hypothesis for the purposes of interpreting the  
21 coefficients that you can estimate, and I've now  
22 said that it's not a reasonable projection, okay,

1 which is why we labeled it conservative.

2 Q Is there an upper bound -- you had  
3 mentioned 91.2 million being a conservative  
4 estimate. Has the Census Bureau come up with an  
5 upper bound estimate for the costs?

6 A In the lifecycle cost estimate, the  
7 current one, the stress testing of that estimate  
8 moved the nonresponse -- the percentage of  
9 households that had to go into nonresponse  
10 follow-up through a fairly wide range of  
11 variation, and then it's selected as the target  
12 cost estimate, the one that was at the 80th  
13 percentile of the distribution. The exact  
14 parameters of that range aren't in the -- in the  
15 final report of that -- but -- but the text says  
16 they put it through a wide range, and they put the  
17 other parameters of the system through a wide  
18 range. So the 80th percentile was used to  
19 generate the base budget and then the higher  
20 quantiles were used to generate the contingency.

21 Q Going back to nonresponse follow-up for a  
22 second, are you aware of analysis of the efficacy

1 of nonresponse follow-up for noncitizen households  
2 versus the rest of the United States population?

3 A There is analysis in the Report G01 from  
4 the 2010 census, which I know have been supplied.

5 Q Besides G01, is there any other analysis  
6 you're aware of?

7 A There are components of that in the  
8 rest -- so the coverage -- Census Coverage  
9 Measurement Program, CCM [sic], for the 2010  
10 census have data that allows one to look carefully  
11 at that, yes.

12 Q And does that analysis also look at the  
13 efficacy of nonresponse follow-up for Hispanic  
14 households versus the rest of the U.S. population?

15 A Yes.

16 Q And does it also look at the efficacy of  
17 nonresponse follow-up for households with limited  
18 English proficiency versus the U.S. population?

19 A I'll have to check. I don't think so. I  
20 think it uses variables that were collected in  
21 either the census or what's called the Census  
22 Coverage Measurement Survey for that, and language



1 proficiency would not have been one of those.

2 Q Now, if a household is only partially  
3 enumerated in self-response, supposing there are  
4 four people, and it only reports there's one  
5 person living in the household, does that  
6 household go into NRFU or is it marked as  
7 enumerated?

8 A It doesn't depend on just the number of  
9 persons who live here box. It depends on how much  
10 of the information we get about those persons,  
11 again, according to protocol, that hasn't been  
12 finalized. The -- the generic version of that  
13 formula would be: Do we know your name, do we  
14 know age or birth date and sex? So if we had  
15 substantially complete information, that's the  
16 definition of it, and we wouldn't send the  
17 household into nonresponse follow-up. We might  
18 send it into field quality control, but those are  
19 not targeted, based on the responses. Those are  
20 samples of the respondents that are -- they're  
21 basically generated to check that the enumerators  
22 are doing their job.

1 Q Are they randomly generated?

2 A I can't say that they're randomly  
3 generated, according to a protocol that I have  
4 examined. They are not necessarily related to the  
5 completeness of the form, but there's -- there's  
6 scope to have them be related to that. There's  
7 scope in the system to have them be related to  
8 virtually anything we want, and I don't know what  
9 exactly was implemented for the end-to-end test.

10 Q I'd like to briefly discuss whole person  
11 imputation. What records are used for whole  
12 person imputation?

13 A So there's two kinds of whole person  
14 imputation. When we have to impute the number of  
15 persons who live in an occupied household, then  
16 those are actually -- those are whole person  
17 imputation and may result in whole person  
18 substitutions, which means that, essentially, all  
19 the characteristics of that household have been  
20 imputed.

21 Q And to clarify, that's specifically what  
22 I'm talking about if you're --

1 A Whole person substitutes.

2 Q Exactly. Yes.

3 A Okay. Because we also do whole person  
4 imputations when we know the count but we don't  
5 know anything else -- or limited amounts of stuff.

6 Q Focusing on if you don't know the count  
7 and you're trying to determine the count of  
8 individuals, the imputation -- or substitution --

9 A So the algorithms that will be used in  
10 2020 for the whole person substitutions have not  
11 been finalized. The algorithms that were used in  
12 2010 were variations of hot-deck imputations.

13 (Thereupon, the court reporter  
14 clarified.)

15 THE WITNESS: Hot-deck, hyphenated.

16 BY MR. TILAK:

17 Q Do you expect the protocols for 2020 or  
18 the algorithm for 2020 to be different from 2010?

19 A We have been actively experimenting with  
20 additional uses of administrative record as a  
21 substitute to for or compliment to hot-deck  
22 imputation, so it's a live candidate.

1 Q But no final decision has been made?

2 A No.

3 Q When does the Census Bureau expect to  
4 make a final decision?

5 A A necessary condition for a final  
6 decision is to have the processing software that  
7 the various files must move through in order to  
8 produce final estimates in place, and it's not.  
9 It will be in place -- it's not off schedule. It  
10 will be in place as the rest of the end-to-end  
11 test is completed. And then when you have that in  
12 place, you can actually start testing these things  
13 in the operational environment. They're currently  
14 being tested in a research environment, and that  
15 research has been going on for more than a decade.

16 Q Has any of that research looked at the  
17 accuracy of whole person substitutes for  
18 noncitizen households versus the rest of the U.S.  
19 population?

20 A No.

21 Q Has any of that research looked at the  
22 accuracy of whole person substitutes for other

1 hard-to-count communities as compared to the U.S.  
2 population?

3 A The research that was done with the 2010  
4 Census Coverage Measurement studies included  
5 analyses of the components of the year-end census  
6 by characteristics like the ones you just recited.

7 Q And that's the G1 --

8 A That's the G series.

9 Q The G series may help us, okay.

10 Has the Census Bureau decided what  
11 geographical unit will be used for whole person  
12 substitutions?

13 A I'm not sure I know what the question  
14 means.

15 Q In general, when imputation is done -- or  
16 substitution is done, does that rely on records  
17 from surrounding communities?

18 A The hot-deck imputation algorithms that  
19 were in place for the 2000 and 2010 census did use  
20 nearby records. Statistical imputation systems do  
21 not have to.

22 Q Is that still the plan for 2020?

1 A There is no plan for 2020. That is among  
2 the candidate algorithms.

3 Q So no final decision has been made?

4 A That's right.

5 MR. TALIK: If we could go off the record  
6 and take a short break.

7 VIDEOGRAPHER: This is the end of  
8 Media Unit Number 4. The time on 3:40 p.m. and we  
9 are off the record.

10 (Off the record.)

11 VIDEOGRAPHER: This begins Media Unit  
12 Number 5. The time on the video is 4:04 p.m. We  
13 are on the record.

14 BY MR. TILAK:

15 Q Dr. Abowd, is there any empirical  
16 evidence that someone who chooses not to respond  
17 to this 2020 census because of the citizenship  
18 question would respond in a face-to-face  
19 interaction with a census enumerator?

20 MR. EHRLICH: Objection. Form. Vague

21 THE WITNESS: Not that I'm aware of.

22 BY MR. TILAK:

1 Q And if that household doesn't respond,  
2 census enumerator would then try to find a proxy,  
3 correct?

4 A That's correct.

5 Q And is there any empirical evidence on  
6 the accuracy of proxy enumerations for areas with  
7 large noncitizen populations compared to the rest  
8 of the United States?

9 A Only indirect.

10 Q And what is that indirect evidence?

11 A That evidence that's in the technical  
12 reports that you've seen.

13 THE WITNESS: The evidence that's in the  
14 technical reports that you have seen.

15 BY MR. TILAK:

16 Q And if a proxy is not found, the census  
17 could then also use administrative records to  
18 enumerate the household, correct?

19 A The census may use administrative records  
20 whether or not a proxy respondent is found.

21 Q But based on your earlier testimony, the  
22 characteristics of the administrative records are

1 such that there are more likely to be  
2 administrative records for citizens compared to  
3 noncitizens?

4 A I think that's a reasonable hypothesis.  
5 I don't actually have any empirical data to  
6 support it.

7 Q And this, finally, this whole person  
8 imputation, is there any empirical evidence on the  
9 accuracy of a whole person imputation for  
10 noncitizen households versus the U.S. population?

11 A So whole person substitutions and whole  
12 person imputations are not very accurate. We've  
13 documented that for multiple censuses, but we  
14 documented it most carefully for the 2010 census  
15 where we explicitly looked at it. We know that.

16 Q And so you would agree that --

17 A We don't count them as correct  
18 enumerations, because we require that the  
19 characteristics be correct, not just the count.

20 Q So you would agree with all the censuses  
21 procedures to try to enumerate a household, some  
22 people are always missed in the decennial census?



1           A    If the question to me is do we  
2   acknowledge that some people are always missed in  
3   a census, the answer is yes.   Some people are also  
4   counted twice.

5           Q    And those would be erroneous  
6   enumerations, correct?

7           A    So one's omissions and the other is  
8   erroneous enumerations, yes.

9           Q    I'd like to have this marked as  
10   Exhibit 17.

11                   (Plaintiffs' Exhibit 17, G series  
12   documents, was marked.)

13   BY MR. TALIK:

14           Q    Dr. Abowd, do you recognize this  
15   document?

16           A    Yes. I was looking for the number, it's  
17   G4.

18           Q    Is this one of the G series documents we  
19   spoke about earlier?

20           A    Yes, it is.

21           Q    If I could just refer you to Page 1 of  
22   the executive summary, and the last full paragraph

1 it says, "The correct enumeration estimate was  
2 284.67 million people."

3 The correct enumeration is the number of  
4 people who were correctly counted, correct?

5 A In the right place.

6 Q It then says the erroneous enumeration  
7 estimate was 10.04 million people. What -- what  
8 are erroneous enumerations?

9 A They consist of persons who are counted  
10 twice, duplicates, and persons who are improperly  
11 counted at the location that they were recorded  
12 at, so not within what's called the -- what's  
13 called the coverage evaluation search area.

14 Q And then it goes on, the second to last  
15 sentence, "The Census Coverage Measurement  
16 estimated that 16 million people were omitted from  
17 the census, and omissions are people who should  
18 have been enumerated in the United States but were  
19 not."

20 Omissions are people who did not  
21 self-respond and were not counted through NRFU; is  
22 that accurate?

1           A     Gross omissions are people that the  
2     dual-system estimation predicts should be there  
3     that we didn't actually find. It's an estimate.

4           Q     Is it a reasonable estimate of people who  
5     should have been counted but were not?

6           A     It's gross. We don't know that they were  
7     not counted. We just know they were not in the  
8     correct enumeration population.

9           Q     And then, finally, it says that many of  
10    these people may have been accounted for by the  
11    5.99 million whole person census imputations.

12          A     Yes. That's what I said, but I used  
13    different words. That -- the next sentence says  
14    why you don't count gross omissions of people that  
15    have been missed.

16          Q     But some percentage of them are people  
17    who have been missed, correct?

18          A     That a reasonable statement, yes.

19          Q     In fact, in this case, somewhere between  
20    10 and 16 million people were missed, correct?

21          A     No. It's not bounded that way.

22          Q     Okay. Why is it not bound that way?

1           A     Because the -- the dual-system estimation  
2     and the demographic analysis are designed to  
3     measure net undercount and differential net  
4     undercount. As a byproduct, they generate this  
5     number that is labeled omissions, but it's gross  
6     omissions. It doesn't mean that this many people  
7     are missing from the census. It means the  
8     residual category is only explainable as a  
9     difference between the dual-system estimator and  
10    the correct enumerations.

11          Q     And besides those people not being  
12    counted, what other reason would there be for  
13    those residuals between the estimation and the  
14    census count?

15          A     Well, there are two decades of litigation  
16    on this, but the dual-system estimator might be  
17    wrong, too, or the demographic analysis.

18          Q     But you would agree some portion of the  
19    omissions were people not counted in the 2010  
20    census?

21          A     I'll agree there is probably some gross  
22    undercount, as well as net undercount, but we

1 don't know its order of magnitude.

2 Q Would you agree that the undercount is  
3 differential between different subpopulations in  
4 the United States?

5 A We have documented that the net  
6 undercount is differential.

7 Q And are hard-to-count populations  
8 specifically likely to be undercounted  
9 differentially compared to the rest of U.S.  
10 population?

11 A That's almost tautological. When we  
12 label a subpopulation hard-to-count, one of the  
13 indicators we use is its net undercount.

14 Q Let's next turn to Page 9, and the  
15 last -- the paragraph, it says, "The black alone  
16 or in combination and the Hispanic populations had  
17 a larger percent omissions than the non-white  
18 Hispanics" --

19 A Sorry. Sorry. You got there too fast.  
20 Point.

21 Q It's the second paragraph.

22 A Got it. Okay.

1 Q "The black alone or in combination and  
2 Hispanic populations have larger percent  
3 omissions, 9.3 percent and 7.7 percent,  
4 respectively, than the nonwhite -- non-Hispanics  
5 white-alone population."

6 Is it accurate that the census's  
7 enumeration procedures are more likely to the  
8 Hispanics -- members of the Hispanic population  
9 compared to the non-Hispanic white population?

10 A I think the answer to that question is  
11 yes, but I would not use the information in this  
12 table to answer that question. I would use the  
13 information in the net undercount table, which  
14 is -- it might not be in this report, but there's  
15 a summary in G01.

16 Q Got it.

17 And then turning to Page 17, this refers  
18 to -- refers to bilingual mailing areas. Are  
19 bilingual mailing areas where the population is  
20 likely to have limited English proficiency?

21 A So bilingual mailing areas for the 2010  
22 census would have been predicted from the 2005 to

1 2009 language questions in the American Community  
2 Survey. So they're indicators of households that  
3 speak more than one language.

4 Q And, again, the omission percentage for  
5 bilingual mailing areas in Table 9 is 7.3 percent  
6 compared to 5.3 percent for the U.S. total. Is it  
7 accurate that the census's enumeration procedures  
8 are more likely to miss people living in bilingual  
9 mailing areas compared to the U.S. population,  
10 generally?

11 A I'll correct your question. If you mean  
12 gross omissions, that's what the table describes.  
13 If you meant net undercount, you can't get that  
14 from this table.

15 Q What table would you refer to for that?

16 A If we have a net undercount estimate, it  
17 would be in one that is labeled net undercount  
18 as -- or percentage net undercount, one of those  
19 two. I don't know -- I don't know the contents of  
20 all of those G series reports. They're summarized  
21 in G01.

22 Q If I can refer you to the column just to

1 the left of omissions percentage undercount, is  
2 that the net undercount?

3 A Thank you. Thank you.

4 Q And is the Number .80 for bilingual  
5 mailing areas?

6 A Yes.

7 Q And the asterisk indicates that it's  
8 statistically significant, correct?

9 A At the 90 percent level, yes. That's  
10 correct.

11 Q And so given that information, is it more  
12 likely that the census's enumeration procedures  
13 would miss people living in bilingual areas  
14 compared to the U.S. population?

15 A Yes. That's what a positive differential  
16 net undercount is.

17 Q And then going back to Page 9 on Table 2,  
18 which we were at earlier.

19 A Was there one there, too, and I missed  
20 it? Yes, there was. Okay.

21 Q If we look at the bottom of Table 2, the  
22 net -- the percent undercount is 1.54 percent?



1 A Yes.

2 Q And that's statistically-significant --

3 A Yes.

4 Q -- compared to the U.S. population?

5 So with that information, is it more  
6 likely that the census's enumeration procedures  
7 will miss members of the Hispanic population  
8 compared to population --

9 A There's a differential net undercount for  
10 Hispanics, yes.

11 Q Now, this is all for the 2020 census.  
12 Does the Census Bureau expect not to have a  
13 differential undercount of Hispanics for the 2020  
14 census?

15 MR. EHRLICH: Objection. Form.

16 THE WITNESS: The Census Bureau expects  
17 to improve its net undercount performance every  
18 census and targets the populations that had  
19 previous net undercounts for special attention.  
20 Sometimes with tests that have been demonstrated  
21 to be more effective and sometimes with  
22 advertising campaigns that have looser empirical

1 connection. Although we used targeted advertising  
2 in 2010 to try to address net undercount issues,  
3 and it was successful in its evaluation. That's  
4 why we were trying to do more targeted  
5 advertising, why we included a specific component  
6 in the integrated communication contract for  
7 targeted marketing. And one of the indicators  
8 being used for the targeted marketing is our low  
9 response rate indicator, which is not the same  
10 thing as a net undercount. These numbers are not  
11 available at levels of geographic detail that  
12 would be useful, but they have correlates, like,  
13 lower response.

14 BY MR. TILAK:

15 Q You said to improve. Do you also expect  
16 to eliminate the differential undercount for  
17 hard-to-count populations?

18 A We design the census, and we optimize the  
19 efforts in order to control the net undercount.  
20 We are trying to achieve a zero net undercount,  
21 but the census is a human operation, and we  
22 evaluate it for the coverage years. We will learn

1 when we evaluate it whether we were successful.

2 Q Do you agree that adding the citizenship  
3 question will make it more difficult to achieve  
4 that goal of reducing undercount for hard-to-count  
5 populations?

6 MR. EHRLICH: Objection. Form.

7 THE WITNESS: It will make it more  
8 difficult to correct -- to collect accurate data  
9 on the enumeration, which will complicate the  
10 assessment of net undercount, because the  
11 indicators, the right-hand side variables, won't  
12 be as accurate as they are if you get more  
13 self-responses.

14 MR. TALIK: We can go off record.

15 VIDEOGRAPHER: We're going off the  
16 record. The time on the video is 4:19 p.m.

17 (Off the record.)

18 VIDEOGRAPHER: We're back on the record.  
19 The time on the video is 4:20 p.m.

20 EXAMINATION BY MR. ADAMS:

21 Q Good afternoon, Dr. Abowd. My name is  
22 Rory Adams. I represent the City of San Jose and

1 the Black Alliance for Just Immigration in the  
2 action pending in Northern District of California.

3 What is the purpose of the 2020 CBAMS?

4 A Census Barriers, Attitudes, Motivators  
5 Survey?

6 Q Yes.

7 A Sorry, study.

8 There's both a survey and focus group  
9 component. Its primary objective was to gather  
10 information on indicators that we call barriers,  
11 indicators that we call attitudes and things that  
12 we think of as motivators. So a barrier is a  
13 reason why someone might not complete the census.  
14 So the questions asks, for example, are you  
15 planning to fill out the census, and if not, well,  
16 we try to get some reasons.

17 An attitude might be, do you think  
18 that -- do you trust the government, do you think  
19 that your 2020 census information will be kept  
20 confidential?

21 And motivators are things like do you  
22 think it's important to equitably allocate the

1 seat -- equitably reapportion the  
2 House of Representatives?

3 The -- some of the statistical modeling  
4 was based on historical relationships between  
5 these kind of variables and the actual indicators  
6 that they took -- they filled out in the census,  
7 self-responded on the census.

8 Q You said there are two components, a  
9 survey component and a focus group component?

10 A Yes.

11 Q How is the survey component designed?

12 A I'm going to answer specifically with  
13 respect to what I believe we're labeling the 2020  
14 CBAMS, but, internally, we've been calling it the  
15 2018 CBAMS because it was conducted in 2018.

16 That is a household probability sample.  
17 So it had a frame from our master address file,  
18 which is the address frame that we keep  
19 continuously as accurately -- as accurately as we  
20 can in which is rebenchmarked in the decennial  
21 census. So we use the production, master address  
22 file, to sample 50,000 households -- no -- 50,000

1 MAFIDs. Then the -- the primary instrument was an  
2 Internet self-response instrument run off the same  
3 computer system with the American Community Survey  
4 and many of the economic surveys are run off of.

5 If the -- if the contact, which is by  
6 mail, comes back determining that there's nobody  
7 living there, so they're removed from the scope of  
8 the sample, and then we calculate the percentage  
9 of households that we get a response from. So  
10 about 17 percent -- about 17,000 of the 50,000  
11 households responded. In the way we calculate  
12 response rates, that's about a 38 percent response  
13 rate.

14 Q And I'm going to hand you what's going to  
15 be marked as Exhibit 18.

16 (Plaintiffs' Exhibit 18, 2020 CBAMS  
17 survey, was marked.)

18 BY MR. ADAMS:

19 Q And I will represent that this is a  
20 document downloaded from the Census Bureau's  
21 website and identified as the 2020 CBAMS survey.  
22 Do you recognize the document as being the 2020

1 CBAMS survey?

2 A So I've only ever seen the code book, not  
3 the instrument. But I recognize questions, so I  
4 think this is the right questionnaire.

5 Q And how -- how are these questions  
6 selected for inclusion in the survey?

7 A We conducted a much more limited CBAMS in  
8 2008. That, I believe, was the first time we  
9 attempted to get pre-census information on factors  
10 that might affect the costs of carrying out the  
11 census, the effectiveness of the census. There is  
12 a -- there is a research staff led by one of  
13 the -- by a senior survey methodologist,  
14 Nancy Bates, and with other senior mathematical  
15 statisticians and with other senior survey  
16 measurement experts, some in the Center For Survey  
17 Measurement and some in the decennial census  
18 statistical divisions, and some in the other parts  
19 of the Census Bureau. They put this instrument  
20 and the survey through our lifecycle survey  
21 development program.

22 They had constructs that they were trying

1 to capture. Some of which they believed to be  
2 well captured by questions that had been used in  
3 older CBAMS. Some of which come from questions  
4 that are used by other survey organizations to  
5 measure general attitudes. There are a large  
6 number of those and our survey measurement experts  
7 are very familiar with them.

8 So -- so they would have had a set of  
9 candidate questions -- they have, generally  
10 speaking, a known budget or approximate budget,  
11 and experience in planning how much of that budget  
12 has to be allocated to instrument development,  
13 instrument testing. So if it's an Internet  
14 self-response, so there's no field operations for  
15 the data collection operation. There was no  
16 nonresponse follow-ups, so that phase isn't there.  
17 And then, post -- post-response processing and  
18 data editing tabulation. So they would have had a  
19 tentative plan for allocating their budget across  
20 the steps and then put the questionnaire through  
21 cognitive testing, the questions, unless the  
22 question has been previously cognitively tested,



1 and then laboratory testing of the whole form.

2 And then I believe they used a small  
3 experimental sample. Our -- I'm not sure they  
4 used an experimental sample. They might have all  
5 been done with laboratory samples, so those are  
6 people that were recruited into our labs to take  
7 whole instruments as opposed to single questions  
8 or focus groups. The Center For Survey  
9 Measurement has laboratory facilities that can  
10 simulate the survey environment or simulate  
11 questions or conduct a focus group. They would  
12 have used a combination of those tools to get the  
13 instrument in place.

14 One of the statisticians on the team  
15 would have drawn the address sample from the MAF.  
16 The addresses would have been prepared, mail-out  
17 materials inviting you to participate would have  
18 been prepared, and then the effort staged during a  
19 fixed field operation.

20 The survey was conducted in collaboration  
21 with -- in collaboration of Y&R, Young & Rubicon,  
22 the lead contractor in the integrated

1 communication contract, and Y&R and other  
2 subcontractors in that contract also participated  
3 in the development and some of their resources  
4 were used, as well.

5 Q Will the result of the 2020 CBAMS be used  
6 only for the purposes of the 2020 census?

7 A Well, I'm sure the answer to that  
8 question is no, because our data can be used  
9 regularly. They were collected primarily in  
10 support of the 2020 census. That's a funding  
11 issue. So we couldn't have run a survey like this  
12 intending to use it primarily for the SIPP and  
13 charged it to 2020. So its principal reason for  
14 being conducted was in support of the 2020 census.  
15 But it produced useful data. We are still using  
16 the data for the one we conducted in 2008 in  
17 support of the 2010 census. So it's a reasonable  
18 presumption that the data will be used for other  
19 purposes, but their primary purpose is in support  
20 of the 2020 census.

21 Q I believe you testified earlier that when  
22 you were trying to draft the protocol for adding a

1 question to the decennial census, that you looked  
2 to the processes and procedures that were used to  
3 vet and add questions to the ACS and the long  
4 form, because they were also considered to be part  
5 of the census; is that correct?

6 A That's correct.

7 Q And both the ACS and long form included a  
8 citizenship question, correct?

9 A That's correct.

10 Q Was a decision made at any point to  
11 include or not to include a citizenship-related  
12 question on the CBAMS survey?

13 A There was no active decision. I believe  
14 that if even a rumor of a citizenship question had  
15 been actively circulating through the  
16 Census Bureau, the development team would have  
17 attempted to gather information about that, and I  
18 believe that the Office of Management and Budget  
19 would have approved it in issuing the clearance  
20 number.

21 Q To be clear, a citizenship question has  
22 appeared on the ACS and the long form and was

1 planned for inclusion in the ACS in 2020, correct?

2 A And 2019 and 2018, correct.

3 Q Right. In light of the fact -- and that  
4 is considered part of the census, the ACS?

5 A Yes.

6 Q So in light of the fact that at least in  
7 part of the census, the citizenship question was  
8 going to appear, there was no consideration to  
9 testing that in CBAMS survey?

10 A So for starters, the CBAMS survey isn't  
11 about testing questions for either the ACS or the  
12 decennial census. And to be perfectly clear, the  
13 2020 census is a separate budget appropriation  
14 from the ACS. So, once again, the principal  
15 purpose of this document couldn't have been to  
16 test questions for the ACS. It had to be to test  
17 the environment and the successful conduct of the  
18 2020 census. That had to be the principal  
19 purpose.

20 Good survey methodologists -- and I  
21 believe a very good crew worked on this -- are  
22 quite sensitive to things that you want to get a

1 measurement of ahead of the pack. But it  
2 literally wasn't on the radar screen in a way that  
3 was -- that the team developing this instrument  
4 caught. As soon as it did, they modified the  
5 protocol for the focus group. So I'm sure that if  
6 six -- I can't actually be sure about at six  
7 months. I'm sure that if there had been time to  
8 modify the questionnaire for CBAMS, it would have  
9 been modified.

10 The compromise was that the first use of  
11 these results is to program the advanced buys for  
12 the advertising campaign, and that has a very  
13 tight deadline. Those buys start earlier next  
14 year. So they need to be doing the analysis, and  
15 this time, we did it with an external partner. So  
16 in addition to doing the analysis -- and  
17 this -- they had to design protocols for conveying  
18 the information outside of the Census firewall to  
19 the Young & Rubicon system so they could do these  
20 targeted advanced buys, and we didn't have  
21 protocols for that. We did all of that  
22 internally, so we didn't have to worry about

1 producing public-use summaries of the data so they  
2 could be given external to the Census Bureau.

3 A contract is no different than any other  
4 person. If we release the data to the contractor,  
5 the contractor is allowed to operate with those  
6 data outside the Census firewall, then those are  
7 public data. So we had to figure out a way to  
8 make the data public, as well.

9 Q Exhibit 18, this -- the survey instrument  
10 was finalized prior to December 12, 2017?

11 A Yes. I don't know exactly when it was  
12 finalized. OMB clearance packages are public, so  
13 you should be able to use that OMB clearance  
14 number at the top of the form to see the date it  
15 was finalized.

16 There's a pretty -- there's a pretty long  
17 planning period to get an instrument all the way  
18 through the approval process. That's why we want  
19 the clearance package for the 2020 census to be  
20 approved by the end of 2018.

21 Q In your -- in your individual deposition,  
22 I believe you testified that there were a number

1 of questions in the survey that were considered  
2 salient for purposes of analyzing the impact of  
3 the citizenship question, but you weren't sure  
4 which questions those were. Looking at the survey  
5 now, can you identify which questions are salient  
6 for purposes of analyzing the impact of the  
7 citizenship question?

8 A What I wanted to look at -- and you  
9 haven't given me, but I did look at -- is the  
10 interim report, which you won't have because it's  
11 not public. Although the discovery has produced  
12 the public use micro sample file that we released  
13 to the contractor, because it was cleared by the  
14 DRV. So you do have that.

15 But what the report says is that most of  
16 the information we got out of CBAMS about citizens  
17 came from the focus groups. But we were very  
18 concerned about the high level of answers to  
19 questions like, do you think the Census Bureau's  
20 data can be used by another government agency? Do  
21 you think the Census Bureau is required to  
22 protect -- since I've seen the code book and the

1 tabular form, I'm not quite sure where the  
2 questions are, but if you give me a second, I'm  
3 sure I can find them.

4 MR. EHRLICH: Page 6.

5 THE WITNESS: Ah, yes. There it is.

6 "Question 38: How concerned are you, if  
7 at all, that the Census Bureau will not keep  
8 answers to the 2020 census" -- "How concerned are  
9 you, if at all, that the Census 39" -- "that the  
10 Census Bureau will share answers to the 2020  
11 census with other government agencies? How  
12 concerned are you, if at all, that the answers you  
13 provide to the 2020 census will be used against  
14 you" -- so those questions are considered relevant  
15 correlates of potential difficulties with the 2020  
16 census due to the presence of the citizenship  
17 question.

18 Those attitudes -- I think we actually  
19 classified these barriers, those responses are  
20 neutral, classification of them, were also true to  
21 an extent before the 2010. The belief in certain  
22 portions of the population that the Census Bureau



1 either isn't required by law to keep the answers  
2 confidential and to not supply them to other, say,  
3 agencies or might do that in spite of the current  
4 requirement of the law, that is a known barrier.  
5 And so its prevalence in the population is  
6 something we use to both target advertising in the  
7 case but also target other efforts.

8           So these data will be used to do  
9 something called small area estimation to help  
10 identify where -- which areas should be targeted  
11 with a communication campaign that addresses the  
12 fact that we are not, by law, allowed to give the  
13 data in identifiable form to anyone, including  
14 other government agencies, and including, in  
15 particular, the immigration and naturalization  
16 services, and we have not done so since those  
17 protections were enacted into law in 1954.

18 BY MR. ADAMS:

19           Q I'd like to get to the interim report in  
20 just a minute, but beforehand, I want to show you  
21 Exhibit 19.

22           (Plaintiffs' Exhibit 19, 2020 CBAMS brief

1 update, was marked.)

2 BY MR. ADAMS:

3 Q This is a document entitled 2020 census  
4 barriers, attitudes and motivators study brief  
5 update for a funder initiative meeting on  
6 April 23, 2018. And I'd like to ask you to turn  
7 to Page 8559.

8 A Yes.

9 Q Are the questions listed on Page 8559 the  
10 questions that were asked in focus groups  
11 pertaining to the citizenship question?

12 A Those are the focus group protocol  
13 questions, so it's a discussion. So those would  
14 have been the prompts used to move the discussion  
15 on to the question of citizenship.

16 Q How are -- how are prompts for the focus  
17 group discussion guide designed?

18 A A team of behavioral scientists  
19 determines, first, what the objectives of the  
20 focus group are. And so the objectives of the  
21 CBAMS focus groups are to recruit participants  
22 from known hard-to-count populations. So,

1 basically, the people in the room are not a  
2 representative sample of the population, which  
3 makes statistical inference not a good tool. But  
4 what they are, are the people that are very  
5 similar to the people we have difficulty getting  
6 to answer the questionnaire in the first place.  
7 So what you try -- in this case, what you're  
8 trying to get from -- some people -- sometimes we  
9 just want people who might not understand the  
10 questions or who might not speak the target  
11 language. In this case, we wanted to know from  
12 people that we had scored as high on a low  
13 response rate score, we wanted to know why they  
14 wouldn't want to take the census. Or in this set  
15 of questions, whether their hard-to-count  
16 characteristic was going to be further enhanced by  
17 their attitudes towards the citizenship question.

18 So these questions would have then been  
19 designed to try to understand why specific groups  
20 of known hard-to-count individuals didn't want to  
21 fill out the census form. And that qualitative  
22 information would then be processed, basically, by

1 counting up how many of these focus groups  
2 particular mentions occur in.

3 So the transcript of focus group gets  
4 coded by professional transcript coders, and it  
5 gets reliability checked, and then those codes are  
6 used to characterize the conversation in the focus  
7 group on certain dimensions. In this case, it  
8 would be barriers, attitudes, motivators,  
9 dimension, and then you -- exactly -- you count up  
10 in how many of the focus groups did this happen?  
11 So for the 30 focus groups we were able to ask the  
12 citizenship question, that would be the  
13 denominator, and we would say something -- 16 --  
14 in 16 of those 30 groups, this -- this attitude  
15 was expressed. I don't like the citizenship  
16 question. I won't take the census if it's on  
17 there.

18 And then we would go back and look at  
19 what was the recruiting characteristics for those  
20 focus groups, and we would correlate that -- not  
21 with a formal correlation coefficient but we would  
22 say, in the ones where this was an issue, this was

1 the property. They were mostly Hispanics or they  
2 were other -- renters, single -- young, single  
3 people, that other -- those are the things that  
4 are used to score you as hard-to-count.

5 Q And is that qualitative information  
6 reflected or discussed in the interim report?

7 A Yes.

8 Q And are the quantitative results of the  
9 survey discussed in the interim report?

10 A Yes.

11 Q With respect to the questions you  
12 identified as -- as relevant to barriers and  
13 related to the citizenship Questions 38, 39 and  
14 40, does the interim report reflect increased  
15 fears or concerns with respect to those questions?

16 A You can't say increased, because that  
17 implies you have something to reference with, so  
18 we would say high or low or relative to. In these  
19 cases -- there's a battery of questions where  
20 there's actually a correct answer and so we mark  
21 how many of the answers that came that are  
22 incorrect. So if you say -- if you say that you

1 don't -- so 38 asks us whether you're concerned  
2 about whether we keep it confidential. But  
3 there's a true or false question that asks whether  
4 you think we're required, by law, to keep it  
5 confidential. So we would take the score on that  
6 true/false test, and that's a measure of  
7 their -- a barrier, because they have incorrect  
8 information. They might still behave the same way  
9 if they had correct information, but we identify  
10 the kinds of incorrect information people have and  
11 then design a communication campaign to correct  
12 it.

13 For an attitude, we would correlate that  
14 with things that we can target, communicate and  
15 attempt to convert them, basically, to change  
16 their attitude.

17 And for motivators, we would say, well,  
18 other people have said this is an important reason  
19 to fill out the census. We would tell the general  
20 population other people think it's important to  
21 fill out the census because you'll get your fair  
22 representation in the Congress. Other people

1 think it's important to fill out the census  
2 because it's used to allocate \$675 billion a year,  
3 so that's the way in which the quantitative  
4 information would be converted into actionable  
5 things.

6 Q With respect to 38, 39 and 40, in  
7 particular, does the interim report recommend any  
8 action items to deal with misperceptions of these  
9 particular issues?

10 A So the interim report does indicate that  
11 the communication campaign should address these  
12 questions. It's interim, not just because we  
13 haven't finished dotting the Is and crossing the  
14 Ts. It's interim because we haven't fully  
15 internally vetted the way the information was used  
16 to draw conclusions about the advertising  
17 campaign. So when it's issued in report form in  
18 late November or December, then we'll put it  
19 through the internal vetting process, and it will  
20 be a publication of the 2020 census program and  
21 you'll be able to see how we process the  
22 information into the basic

1 instructions -- instructions is too strong of a  
2 word -- into the basic planning of the first page  
3 of the communication campaign.

4 That first phase, also, in addition to  
5 media buys, it includes recruiting partner  
6 organizations and identifying places where it  
7 might be good to find additional partners or  
8 different partners.

9 BY MR. ADAMS:

10 Q What views are -- what findings or  
11 qualitative information is reflected in the  
12 interim report that was prompted by the prompts  
13 added on March 27 after the citizenship question  
14 was decided?

15 A Since the interim report isn't final, I'm  
16 going to characterize it in broad terms and not  
17 quantitatively. We identified that some  
18 subpopulations, including ethnic groups,  
19 Hispanics, are very concerned about the  
20 citizenship question and appear to be concerned  
21 about it for reasons related to the same things in  
22 the series. This came from the focus groups where



1 we were specifically asking about citizenship, but  
2 its correlates show up in the survey where we  
3 don't ask about citizenship but we can correlate  
4 something like Hispanic ethnic origins with  
5 answers here.

6 But we also found that other groups  
7 weren't particularly concerned. For example, when  
8 the focus group was primarily citizens, they  
9 didn't -- they didn't express the same concern.  
10 Even though those citizens would have been  
11 selected with the same hard -- hard-to-count  
12 indicator procedure. So they -- obviously, didn't  
13 come from the same subpopulations but came from  
14 persons within those subpopulations that had been  
15 selected on the hard-to-count criteria.

16 Q Were focus group participants selected  
17 based on their own citizenship status?

18 A That was not one of the criteria.

19 Q The focus groups indicated that Hispanics  
20 were very concerned about the addition of a  
21 citizenship question. Does Census have a way to  
22 determine whether those concerns have increased

1 relative to before December -- before March of  
2 2018?

3 A We're trying to measure levels at this  
4 point. Measuring changes is beyond the pale.

5 Q The results from focus groups have been  
6 fed to a decennial team, I believe you stated  
7 earlier. I was wondering if you could clarify  
8 what you meant by that.

9 A I know what I meant by it. That might  
10 have been an imprecise technical term there.

11 So the operation of running a census is  
12 highly interdependent, and it has a group of very  
13 large contracts that are carrying out those  
14 operations in collaboration with career civil  
15 servants who work in various parts of the  
16 Census Bureau, but primarily, in this case, in the  
17 decennial directorate. So the results are  
18 being -- I'm not supposed to use air quotes -- are  
19 being supplied to -- it's called team Y&R, that is  
20 the team integration contract, but they would also  
21 be supplied to the field directorate because the  
22 field directorate actually conducts the field

1 operation under a budget from the decennial. We  
2 don't get a separate -- we have lots of  
3 enumerators who haven't worked for us except for  
4 the census, but their -- that whole process is run  
5 through the field directorate.

6 Q How are the results from the CBAMS  
7 currently being used? Are the results currently  
8 being used to modify protocols, to design  
9 messaging campaigns or other -- in other ways?

10 A The results are currently in the hands of  
11 a small team from Young & Rubicon and the  
12 Census Bureau, being coordinated within the  
13 Census Bureau by Nancy Bates, and Gina Walejko on  
14 the technical side. They were the core of the  
15 team that did this successfully. By this, I mean  
16 focused the advertising and focused the field  
17 effort on quantitatively-identifiable low response  
18 areas that -- Nancy, in particular, is something  
19 of a pioneer in this area. So she is using her  
20 expertise. Gina is using her expertise. The Y&R  
21 team is using their expertise, which comes from a  
22 different domain, and the field staff is using

1 their expertise to try to learn what we can from  
2 these data, in addition to the other tools that  
3 we've already produced, like the -- the low  
4 response indicators in the planning database. So  
5 all of those tools will get used.

6 Some of those tools have been actively  
7 incorporated into the operational control systems  
8 optimizer so that it can use them as a part of its  
9 scheduling algorithm. The field supervisors and  
10 the managers will get briefed, but the primary  
11 use, right now, is to ramp up the communication  
12 campaign.

13 Q And just to confirm, the final report  
14 will be publicly available, you anticipate, in  
15 November or December?

16 A I'm guessing it's still going to be  
17 labelled an interim report, but it will be the  
18 first public report from the CBAMS.

19 MR. ADAMS: Let's go off the record.

20 VIDEOGRAPHER: We're going off the  
21 record. The time on the video is 4:53 p.m.

22 (Off the record.)

1 VIDEOGRAPHER: This begins Media Unit  
2 Number 6. The time on the video is 5:11 p.m. We  
3 are on the record.

4 EXAMINATION BY MS. GOLDSTEIN:

5 BY MS. GOLDSTEIN:

6 Q Good afternoon, Dr. Abowd. My name Elena  
7 Goldstein. I am senior trial counsel for the  
8 New York Attorney General's office. We are  
9 another one of the plaintiffs in these many cases  
10 challenging the citizenship question.

11 Now, I'm going to be asking you a series  
12 of questions, and, in large part, to make this go  
13 a little bit faster and in light of the  
14 questioning you have sat through so helpfully  
15 today, I'm going to be jumping around some of our  
16 topics sort of abruptly, okay?

17 A Okay.

18 Q Okay. So I'm going to hand you what has  
19 been marked as Plaintiffs' Exhibit 20.

20 (Plaintiffs' Exhibit 20, Question 28, was  
21 marked.)

22 BY MS. GOLDSTEIN:

1           Q    I'm handing you what has been marked as  
2 Exhibit 20. It is a document Bates stamped 4863  
3 to 4877. And I'm going to ask you to just turn to  
4 Page 4874. And I'm going to direct your attention  
5 to the very last paragraph for Question 28, in the  
6 last portion of it, which is discussing why the  
7 Census Bureau did not include a topic on the SOGI,  
8 sexual orientation and gender identity, on the  
9 planned topics on the 2020 census.

10               And this paragraph, I'll just read the  
11 relevant language, notes "However, at the end of  
12 the process, there was no demonstrated federal  
13 data need for the addition of this content and,  
14 subsequently, no changes to the planned census or"  
15 -- "and ACS subjects."

16               What does it mean for there to be no  
17 demonstrated federal data need?

18           A    In assessing the reasonableness and  
19 feasibility or changing or adding to one of our  
20 questionnaires, we have an informal hierarchy. So  
21 the Constitution says we have to count everybody,  
22 so that one, basically, is off the table to

1 change.

2 Several statutes mandate that we collect  
3 information, for example, about languages in  
4 support of the Section 203 of the Voting Rights  
5 Act. So absent the change to that legislation or  
6 judicial determination that it was no longer  
7 effective, the things that we do in support of  
8 that would stay on the questionnaire. Now, we  
9 might change the way we do them, but they would  
10 stay there.

11 Q Sure.

12 A Many federal agencies identify -- they're  
13 our next prime -- identify programmatic  
14 requirements for data and statistical agencies  
15 serve those programmatic requirements as a  
16 principal client. That really is one of the  
17 reasons why we exist. But those are nuances.  
18 They have degrees.

19 So we would generally try to determine  
20 what the specific requirement, in this case for  
21 SOGI, was relative to a self-response declaration  
22 of sex, which is the way we asked the question

1 from on the census, and some of our clients make  
2 their independent case for it. Like, the National  
3 Center For Health Statistics, when we conduct a  
4 survey with them, if they ask for SOGI  
5 information, we will get it, but it's a survey  
6 we're conducting on a contractual relationship for  
7 them.

8           So on the ACS -- which is, really, where  
9 we were discussing this, not the census -- on the  
10 ACS, it would have been: Are there sufficient  
11 programmatic needs across, primarily, our federal  
12 client, but we wouldn't rule out other clients,  
13 but primarily our federal clients to justify  
14 developing SOGI battery, and, also, is it a large  
15 enough self-identifying proportion of the  
16 population that we can get reliable measurements?  
17 We think we can get reliable measurements of SOGI,  
18 but we haven't identified a broad-based federal  
19 agency requirement that can only be fulfilled by  
20 modifying the ACS -- or it can be most effectively  
21 fulfilled on both quality cost and usefulness by  
22 modifying the ACS.



1 Q Is this one of the issues that might be  
2 discussed at one of those technical meetings that  
3 you were testifying about earlier today?

4 A It would certainly be discussed in  
5 advisory groups like the census scientific  
6 advisory group, and national advisory -- the  
7 Census Scientific Advisory Committee and the  
8 National Advisory Committee, and it's also  
9 discussed in working groups organized by the  
10 Office of the Chief Statistician of the  
11 United States and OMB under working groups. So it  
12 is an active area of discussion among the  
13 statistical -- official statistical community in  
14 Washington and the broader statistical community.

15 Q Can I ask you to turn the page, please?  
16 And if you'll see in the very first paragraph on  
17 4875, this document distinguishes between  
18 mandatory content, required content and  
19 programmatic content.

20 Are you familiar with that sort of  
21 three-part organization or distinction?

22 A Yes. I sort of went and gave you the

1 proper definition of mandatory and --

2 Q I just want to make sure you're familiar  
3 with this?

4 A Yeah. Okay.

5 Q And this is an accepted set of  
6 distinctions for the Census Bureau, between  
7 mandatory, required and programmatic data needs?

8 A It's a useful classification, and some  
9 data needs move more fluidly between the  
10 categories than others.

11 Q Where would you classify the citizenship  
12 question?

13 A I would personal- -- so I'm not aware of  
14 the Bureau having put it into these categories. I  
15 believe the proper classification of it is  
16 required.

17 Q How can it be required -- would it be  
18 required pursuant to the Voting Rights Act?

19 A Yes. So what is required is information  
20 sufficient to estimate the eligible voter  
21 population in a proposed district. That's  
22 required both to demonstrate you are in compliance

1 with the Voting Rights Act and to do the scrutiny  
2 of that compliance.

3 Q So it has been required since 1965 when  
4 the Voting Rights Act was passed?

5 A So this is why I say these are -- these  
6 are fluid. It -- tabulations from the long form  
7 were used when they started to be -- they weren't  
8 available in the 1960s, because we didn't ask the  
9 question in 1960 on the long form. So we did ask  
10 it again on this long form in 1970s and  
11 tabulations were produced of citizenship  
12 population, I believe. I don't have specific  
13 knowledge of how they were used in the '70s but I  
14 believe used like the Citizen Voting Age  
15 Population tabulations that we now produce.

16 Q And that the Census Bureau has been  
17 producing for decades?

18 A When we collect data on citizenship, we  
19 produce statistical products based on those data.

20 Q So you mentioned the advisory committees  
21 just a moment ago. What is the role of the  
22 advisory committees with respect to the decennial

1 census?

2 A So the Census Bureau is an agency that  
3 benefits from three advisory committees, the CSAC,  
4 the Census Scientific Advisory Committee, the  
5 National Advisory Committee on Race, Ethnicity and  
6 Other Populations, and the Federal Economic  
7 Statistics Advisory Committee, so they're usually  
8 called CSAC, NAC and FESAC.

9 I'm going to do FESAC really quickly.  
10 It's chartered in the Department of Commerce but  
11 it advises the Census Bureau, the BLS, the Bureau  
12 of Labor Statistic, and the Bureau of Economic  
13 Analysis, BEA, primarily about economic products,  
14 but the census of population would be a subject  
15 that would be presented to them on which we might  
16 ask their advice and they do get updates on it as  
17 well as other products.

18 But they focus on economic products, and  
19 although they're chartered in Commerce, the BLS is a  
20 full partner.

21 The other two, CSAC and NAC, are  
22 chartered in the Department of Commerce for the

1 benefit of the Census Bureau, and they are  
2 advisory committees under the Federal Advisory  
3 Administrative Committee, FACA. So they operated  
4 according to the FACA rules. The nomination  
5 procedure has to be public. Because they're  
6 chartered in Commerce, Commerce determines the  
7 membership. The agenda has to be public. The  
8 meetings have to be public. There has to be a  
9 public comment period.

10 But, generally, they are for our benefit  
11 in the sense that we actively seek to put on those  
12 advisory committees people and representatives or  
13 organizations who can be helpful in the scientific  
14 committee on many different technical issues in  
15 the National Advisory Committee on the full gamut  
16 of issues, in particular, for the census --

17 Q Sure.

18 A -- not just the one in 2020, that has  
19 been a source of advice and outreach to many of  
20 the populations that we -- that it's important to  
21 have partnerships with when you collect the data.

22 Q So is it fair to say that the

1 Census Bureau typically consults with CSAC and the  
2 NAC about significant changes to the decennial  
3 census?

4 MR. EHRLICH: Objection. Form.

5 THE WITNESS: It is correct to say that  
6 we regularly consult with CSAC and the NAC about  
7 the ongoing operations of all our major  
8 statistical programs and some of our not-so-major  
9 statistical programs.

10 BY MS. GOLDSTEIN:

11 Q And that includes the census?

12 A That includes the census.

13 Q Do you know the dates of the NAC  
14 committee -- withdrawn.

15 Was the NAC consulted about the  
16 citizenship question prior to the March 26th  
17 decision by Secretary Ross?

18 A With your permission -- are you going to  
19 ask me the same question about CSAC?

20 Q I will.

21 A I'm sorry?

22 Q I will.

1           A     Can I do them at the same time? It will  
2 be easier.

3           Q     Please.

4           A     So both NAC and CSAC meet twice a year on  
5 an approximately September/March schedule. So  
6 when they met for what they call the fall meeting  
7 of 2017, there was nothing in the air. And when  
8 they met for the spring meeting, in the case of  
9 CSAC, the Secretary had just announced his  
10 decision. And in the case of NAC, the Secretary's  
11 decision had been out for, I believe, about a  
12 month, but nothing in the administrative record  
13 had been released yet. So for both of those  
14 spring meetings, we had what I think we would all  
15 characterize in the Census Bureau a very awkward  
16 meeting.

17                 Had the question been before us long  
18 enough, we would certainly have consulted with  
19 them. And because the entire decision-making  
20 process was compressed into a few months, we did  
21 not. And we did not have working groups in place  
22 that we thought we could effectively use in

1 preparing the materials that the Secretary relied  
2 upon for his decision.

3 Q So I just want to make sure I understand,  
4 that if the Census Bureau had had adequate time,  
5 you would have consulted the NAC regarding the  
6 citizenship question proposal?

7 A Yes.

8 Q And if the Census Bureau had had adequate  
9 time, you would have consulted the --

10 A CSAC.

11 Q -- CSAC about the citizenship question?

12 A Yes.

13 Q And if the Census Bureau had had adequate  
14 time, you would have convened working groups at  
15 these advisory committees to study the citizenship  
16 question?

17 A We might have, yes. It would have been  
18 actively discussed.

19 Q Now, recognizing that these committees  
20 did not have an opportunity to weigh in prior to  
21 the Secretary's decision, following that decision,  
22 did these committees at your awkward meetings



1 express opinions with respect to the citizenship  
2 question?

3 A Both committees expressed recommendations  
4 that reflected the views of those committees about  
5 the citizenship question, yes.

6 Q Can you please tell me NAC's  
7 recommendations or views with respect to the  
8 citizenship question?

9 A NAC's -- so I'm going to summarize them.  
10 They're public. They're on the NAC site, so if  
11 you want to read a recommendation into the record  
12 and have me comment on it, I will.

13 I will characterize them this way. They  
14 were extremely concerned that it was going to make  
15 conducting the census in some of the populations  
16 that are represented on the NAC much more  
17 difficult, for a variety of reasons. And they  
18 made recommendations, like, can you -- can you  
19 determine what policies will be used to influence  
20 whether immigration officials will be in the field  
21 at the same time as census enumerators? Can you  
22 describe how the communication campaign will be

1 modified in light of the citizenship question?

2 Q Sure.

3 A That captures the general tenor.

4 They also made specific recommendations  
5 that we explicitly did not accept. I don't  
6 remember all of them, but it's in the record that,  
7 no, we can't do that. We were instructed by the  
8 Secretary to conduct the census with the question  
9 on it, and that is what's going to happen.

10 Q Is it fair to say that NAC told the  
11 Census Bureau, we don't think you should have the  
12 question?

13 A Well, I don't recall reading it in their  
14 recommendations, but I think that's a fair  
15 characterization, yes.

16 Q And did the CSAC take, substantially, the  
17 same position?

18 A They might have been even more vocal.

19 Q With respect to their opposition to the  
20 citizenship question?

21 A Yes.

22 Q So I am going to show you what is going

1 to be marked as Plaintiffs' Exhibit 21.

2 (Plaintiffs' Exhibit 21, 2020 census  
3 integrated communication plan, was marked.)

4 MS. GOLDSTEIN: And this is a 208-page  
5 document, and so I only printed a couple copies.  
6 My apologies to the world and counsel.

7 BY MS. GOLDSTEIN:

8 Q This is document entitled 2020 census  
9 integrated communication plan. As I mentioned,  
10 209-page [sic] version. This is version 1.1 dated  
11 6/2/2017.

12 Do you recognize this document?

13 A Yes.

14 Q What is this?

15 A This is one of the many plans that the  
16 2020 census releases periodically to supply  
17 transparent detailed information about the  
18 planning and operations of the 2020 census.

19 Q And is another version of this document  
20 planned?

21 A So I've been asking about these  
22 throughout the day but I didn't ask about this

1 one. I now know that there will be another  
2 version of the -- of the overall plan released in  
3 early 2019. Most of these plans do get updated,  
4 but -- to say whether there is a planned version,  
5 I would have to ask, and I will.

6 Q And in connection with that, if you can  
7 also find out whether and to what extent the  
8 citizenship question will change the plans that  
9 are in this document, or if you know now?

10 A So the reason we revised them is to  
11 reflect information that has come to our knowledge  
12 during the time it was written and during the time  
13 the remaining things the plans are about have to  
14 be acted on. So there's no point in having a  
15 revised census plan in 2022. That's, basically,  
16 just a history document. So if it's going to be  
17 revised, it's likely going to be revised  
18 relatively soon, and it will certainly reflect  
19 what we learned in -- about the citizenship  
20 question from the work that's been done to date.  
21 We did not have a communication component in the  
22 end-to-end test, so there won't be an opportunity

1 to revise the plan as a consequence of what we  
2 learned there.

3 Q Why did you not have a communications --

4 A Component.

5 Q -- component in the end-to-end test?

6 A It was not sufficient --

7 (Thereupon, the court reporter  
8 clarified.)

9 THE WITNESS: There was not sufficient  
10 budget.

11 BY MS. GOLDSTEIN:

12 Q So if you can turn to Page 7 of this  
13 plan, and if you go down to Bullet Point 1,  
14 "Detail the research and database approach: A  
15 successful campaign must be based on a solid  
16 foundation of research and have strong internal  
17 systems for collecting and analyzing data to  
18 optimize performance."

19 Do you agree with this statement?

20 A Yes.

21 Q And given the timing of when the  
22 citizenship question was added, is there a solid

1 foundation of research that informs the  
2 communication plan -- the communication planning  
3 process about the citizenship question and its  
4 implications?

5 A No.

6 Q And are there stronger internal systems  
7 for collecting and analyzing data to optimize  
8 performance, given the recent addition of the  
9 citizenship question?

10 A So we have tried to optimize performance  
11 by using the instruments that we have available to  
12 us, and there are additional planned task orders  
13 for this communication, the integrated  
14 communication contract, that will involve  
15 additional collection of data, realtime tracking  
16 data, both survey-based and other ways. So there  
17 are definitely plans to collect data, and they  
18 will be checked with -- with the census design as  
19 it exists today in mind. So they will be fully  
20 cognizant of the citizenship question.

21 Q Is it fair to say that the late addition  
22 of the citizenship question will make it harder to

1 implement an effective communications plan?

2 MR. EHRLICH: Objection. Form.

3 THE WITNESS: No. I don't think it will  
4 make it harder to implement an effective  
5 communication plan. Whether that plan can be as  
6 effective as we had hoped, is an open question.  
7 We are going to have to figure out how to conduct  
8 the census in the current macro climate. And  
9 that's not just the citizenship question. That is  
10 the current climate. And that's not different  
11 from what we had to figure out in 2010 and 2000.

12 2000 was the first time we did a  
13 communication campaign, and we learned an enormous  
14 amount. I think the most important thing we've  
15 learned from a communication campaign is that the  
16 vast majority of the residents of the  
17 United States only know about the Census Bureau  
18 because of the conducting of the decennial census.  
19 And while we're immersed in it every day and many  
20 of you are professionals, you're probably immersed  
21 in it, too, the typical citizen, the  
22 representative respondent on one of our surveys

1 doesn't know about the existence of statistical  
2 agencies until that survey shows up in his or her  
3 mailbox usually.

4 So the one with 100 percent saturation is  
5 the census. The next closest thing is  
6 American Community Survey, but its saturation is  
7 only a few percentage points a year, accumulates  
8 to a fair percent of the population. So this is  
9 our opportunity to teach the people who live in  
10 the United States why we have a statistical  
11 agency. Why we have statistical agencies and what  
12 they're good for.

13 BY MS. GOLDSTEIN:

14 Q But is it fair -- I think you  
15 testified -- let me ask it as a new question.

16 A Okay.

17 Q The addition of the citizenship question  
18 will impact how the Census Bureau does its  
19 communications, correct?

20 A Yes.

21 Q And the short time frame in which the  
22 Census Bureau has to adjust its plan will make



1 that process a little bit more difficult --

2 A Yes.

3 Q -- fair to say?

4 A Yes.

5 Q Okay. So let's go to Page 37, and if you  
6 go one, two, three, four, bullet points down,  
7 "With young children having a highest net census  
8 undercount rate than any other age group, Hispanic  
9 children account for more than 36 percent of the  
10 total net undercount for all children younger than  
11 five."

12 Did I read that correctly?

13 A Yes.

14 Q So there is a -- prior to any addition of  
15 the citizenship question, the Census Bureau has  
16 recognized that there is a net undercount for  
17 Hispanic children, correct?

18 A Yes.

19 Q Is it fair to say that the NRFU -- NRFU  
20 efforts that the Census Bureau puts in place are  
21 less effective with respect to this population?

22 MR. EHRLICH: Objection. Form.

1 THE WITNESS: So these are estimates  
2 based on the 2010 census coverage measurement  
3 program.

4 BY MS. GOLDSTEIN:

5 Q Sure.

6 A So they were in an environment -- a  
7 different political environment and a  
8 questionnaire without a citizenship question on  
9 it. And this identification of children, age zero  
10 to four, this is the first time that that had  
11 popped out as such a large net undercount.

12 There's a couple of possible reasons for  
13 that. Our demographic data -- so one of the  
14 things we would measure against better now are for  
15 that age group because of accuracy of birth  
16 records. So we have, consistently, throughout  
17 this decade, focused on ways in which we can  
18 improve our undercount. The -- the end-to-end  
19 test does have a coverage evaluation component,  
20 but it wasn't structured to provide statistical  
21 information. So we have only the direct analysis  
22 of the test to see if we have improved it.

1 I don't want to say it's a crap shoot. I  
2 think that there is solid evidence that design  
3 changes that have been made, particularly queues  
4 and reminders, and these are actually easier to do  
5 on the Internet self-response instrument than on a  
6 paper instrument, because you can blow by the  
7 reminders and the queues on the paper one, but  
8 it's harder to blow by the ones on the Internet  
9 instrument, too, but it's harder to because of the  
10 way it's structured. So we put some considerable  
11 effort --

12 BY MS. GOLDSTEIN:

13 Q Sure.

14 A -- into trying to alert people who have  
15 answered someplace else on the form, correlates to  
16 there might be a young -- an uncounted person here  
17 on this, but we don't have the statistical  
18 evidence to back up a claim that that will reduce  
19 the net undercount. We have the statistical  
20 correlates to suggest it might.

21 Q Is it possible that the presence of the  
22 citizenship question on the decennial census will

1 exacerbate this kind of net undercount of Hispanic  
2 children?

3 A Yes. That is what we mean when we say  
4 the quality of the census count will be harmed.

5 Q Let's go to Page 53. And I just want  
6 to -- you got -- direct you to the very last  
7 paragraph in bold. Leading up to the 2020 count,  
8 all communication elements, including advertising,  
9 earned media, collateral and other items designed  
10 for public dissemination will be pretested and  
11 refined.

12 Has that process happened yet?

13 A I'm sure that some parts of that process  
14 have happened already. But a systemic part of it  
15 would have been part of the 2018 end-to-end test  
16 and so -- yeah, at the point at which this plan  
17 was written, I believe -- I get my budget years  
18 and my calendar years -- I believe -- we were  
19 still in fiscal 2017. The full design for the  
20 end-to-end test was still on the table. That was  
21 the three site and it included a media campaign.  
22 So those comment components were not done.

1           The other components that are part of the  
2 integrated communication contract and the ongoing  
3 activities of the decennial census were done.

4           Q   Earlier you testified that the political  
5 environment can affect response rates, correct?

6           A   I know I just said political. I've been  
7 trying very hard to say macroenvironment. If  
8 you'll give me leave to say macroenvironment,  
9 that's what I meant.

10          Q   And one of the things that goes into  
11 macroenvironment is the political context, fair to  
12 say?

13          A   That's fair to say. But another thing  
14 that goes into it is the state of the economy.

15          Q   Absolutely.

16                So let's say -- so would you -- you've  
17 also testified that the macroenvironment can  
18 affect the efficacy of NRFU, correct?

19          A   Correct.

20          Q   Is there -- is it possible that the  
21 presence of a citizenship question will exacerbate  
22 those effects?

1           A    It's certainly possible, yes.

2           Q    Does the Census Bureau believe that that  
3   is likely?

4           A    So what we believe is likely is that  
5   we're going to need more intensive nonresponse  
6   follow-up than the baseline lifecycle cost  
7   estimate.   One of our big concerns -- macro  
8   concerns is when you ramp up the NRFU, you have to  
9   hire the planned number of enumerators so that  
10   they're available to deploy.   If you discover one  
11   week into NRFU that you're short of enumerators,  
12   the six- to seven-week onboarding process defeats  
13   you.

14                So let me just say there are many  
15   professionals at the Census Bureau painfully aware  
16   of the consequences of not being able to onboard  
17   enough enumerators.   As I understand it, we had to  
18   ask for a budget supplement in 1990 because of  
19   difficulties onboarding.

20                We had the best possible macroenvironment  
21   for conducting a census in this regard in 2010,  
22   for all the wrong reasons, but, nevertheless, it

1 was extraordinarily easy to onboard very good,  
2 quality enumerators.

3 So in terms of macroenvironment,  
4 we're -- the red lights are flashing around can  
5 you hire enough enumerators? And the cost  
6 estimate is designed -- assuming that we can, if  
7 we can, then where the extra cost from the  
8 nonresponse follow-up might be caused by the  
9 citizenship question will come from having to  
10 deploy them more intensively than we had planned.

11 Q And it's fair to say that there are  
12 aspects of the macroenvironment currently that are  
13 making it difficult to hire as many enumerators as  
14 the Census Bureau needs?

15 A So I don't have to hypothesis, we had  
16 difficulty hiring enumerators in Rhode Island for  
17 the test.

18 Q And you expect that problem to be the  
19 case for the -- as you attempt to onboard more  
20 enumerators, correct?

21 A I would say we used that experience  
22 to -- as an opportunity to revisit some components

1 of that recruitment plan.

2 Q But it's fair to say that the low levels  
3 of unemployment right now will make it more  
4 difficult to hire enumerators?

5 MR. EHRLICH: Objection. Form.

6 THE WITNESS: It's fair to say it will  
7 make it more expensive to hire enumerators. And  
8 if that's not acknowledged, then it will make it  
9 more difficult to hire enumerators.

10 BY MS. GOLDSTEIN:

11 Q So, previously, you testified about the  
12 work that Young & Rubicon was retained to do,  
13 correct?

14 A So I testified about the work of the  
15 integrated communication contract for which Y&R is  
16 the lead contractor.

17 Q Have they done attitudinal studies on the  
18 citizenship question as part of that contract?

19 A I do not know whether they have done  
20 them. I do know that they are being actively  
21 discussed.

22 Q And has Reingold performed attitudinal



1 studies on the citizenship question?

2 A So, as I said earlier, I would learn what  
3 Reingold -- so Reingold is a partner in the  
4 integrated communication contract, one of the  
5 subcontractors. Reingold has been involved in the  
6 task orders associated with the integrated  
7 communication contract to date. Reingold did  
8 participate in the CBAMS task order. I asked  
9 whether the task orders were public, and the task  
10 orders are not public. So they either have to be  
11 FOIA'd or if they're discovered, they have to be  
12 redacted to remove confidential information from  
13 them. I think that that's what I promised to get  
14 in terms of an answer about Reingold.

15 Q But do you know if they have performed  
16 attitudinal studies as part of this?

17 A So I do not know whether Reingold was the  
18 specific subcontractor or on the subcontractor  
19 team to do them. That would be in the task  
20 order -- the task order would say this has to be  
21 done, and then Y&R would assemble the team that  
22 did it. So I might not necessarily know, but the

1 financial officer paying the bills would know  
2 whether contractors --

3 The Census Bureau's answer to that  
4 question is they have actively participated in the  
5 task orders to date and -- and that included the  
6 CBAMS, which did have attitudinal -- I think  
7 you're not talking about those attitude studies.

8 Q There are other attitudinal studies  
9 pursuant to that contract, correct?

10 A There is discussion of other attitudinal  
11 work broadly interpreted, but we're not done  
12 collecting data - --

13 Q Right.

14 A -- about things that might make it easier  
15 or more difficult to conduct the census.

16 Q So are -- there are no results yet to be  
17 analyzed from those studies?

18 A As far as I know, yes. The agency's  
19 answer is there are no --

20 (Thereupon, the court reporter  
21 clarified.)

22 THE WITNESS: There are not yet any data

1 from those studies.

2 MS. GOLDSTEIN: Can I have this marked,  
3 please?

4 (Plaintiffs' Exhibit 22, OMB standards  
5 and guidelines for statistical surveys, was  
6 marked.)

7 BY MS. GOLDSTEIN:

8 Q Actually, before I get to this, you had  
9 testified at your previous deposition regarding  
10 Census's statutory charge to seek alternative  
11 sources for information before asking a question  
12 of the population.

13 Where does that statutory charge come  
14 from?

15 A Yeah. In Title 13 -- I'm sorry, I can't  
16 identify the clause -- we are instructed to use  
17 administrative records and other sources of data  
18 before attempting to gather the data by direct  
19 instrument. That's a paraphrase, but that is  
20 certainly the way we interpret that clause in the  
21 Title 13.

22 Q And that is a well-established

1 Census Bureau practice, correct?

2 A Correct.

3 Q I'm handing you what has been marked as  
4 Plaintiffs' Exhibit 22. It is a copy of the  
5 standards and guidelines for statistical surveys,  
6 September 2006, from the Office of Management and  
7 Budget.

8 Do you recognize this document?

9 A I think your handed me SPD2.

10 Q I think that's the shorter way to say it,  
11 yes.

12 A Okay.

13 Yes. I do.

14 Q The Census Bureau is obligated to comply  
15 with the standards set forth in this document,  
16 correct?

17 A Yes. That's right.

18 Q I'm going to ask you to turn to Page 11  
19 of this document, Standard 2.3. "Agencies must  
20 design and administer their data collection  
21 instruments and methods in a manner that achieves  
22 the best balance benefit maximizing data quality

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1 and controlling measurement error" --

2 A I'm sorry. I started reading -- 2.3.

3 Q I'm sorry?

4 A I was down in the guidelines. Go ahead.

5 Yes, I've got it. Go ahead.

6 Q -- "controlling measurement error while  
7 minimizing respondent burden and cost."

8 Now, at prior depositions, we have looked  
9 at the many Census Bureau memoranda that your team  
10 of experts put forth, and the Census Bureau has  
11 concluded that Alternative D resulted in lower  
12 quality data than Alternative C, correct?

13 A Yes.

14 Q And Alternative D has a higher respondent  
15 burden than Alternative C, correct?

16 A Yes.

17 Q And Alternative D has a higher cost than  
18 Alternative C, correct?

19 A Yes.

20 Q And I believe you've testified previously  
21 that no decision has yet been made on whether or  
22 not the Census Bureau will use the self-response

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1 data gathered pursuant to a citizenship question;  
2 is that correct?

3 A I believe I said that no decision has  
4 been made on how the Census Bureau will process  
5 the respondent data into the final record of the  
6 2020 census and use the respondent data and the  
7 administrative data in producing a CVAP table.

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8 Q And one possibility that you raised at  
9 your deposition was to implement  
10 Alternative D -- "One way to" -- I'm reading from  
11 your deposition, "One way to implement  
12 Alternative D is to conduct Alternative B, ignore  
13 it and do Alternative C."

14 Correct?

15 A That is one way to implement  
16 Alternative D, yes.

17 Q So one possibility that the team of  
18 experts is considering is to conduct  
19 Alternative B, ignore it and do Alternative C; is  
20 that correct?

21 A It's more nuance than that. One  
22 possibility they're considering is how to do a

1 response quality evaluation that allows a  
2 combination of the respondent data and the  
3 administrative data that uses both in a  
4 statistically defensible way. A statistical  
5 defensible way means you can explain the reason  
6 why the combination was done the way it was done  
7 and demonstrate that it has better properties on  
8 this quality risk usefulness profile.

9 Q And the Census Bureau has not yet  
10 determined whether or not there is a  
11 scientifically feasible way to do that?

12 (Conference call interruption.)

13 BY MS. GOLDSTEIN:

14 Q Or statistical feasible way to --  
15 She's like an old friend.

16 A We have a number of candidate evaluations  
17 that we're clearly going to have to do very  
18 rapidly and come to a conclusion. Large  
19 collections of mathematical statistics and survey  
20 methodologists can have difficulty coming to a  
21 conclusion in a hurry. That's why the acting  
22 director gave us a deadline.

1 Q Lawyers have the same problem.

2 But it is still the case that today, no  
3 conclusion has been reached, correct?

4 A That's correct. Yes.

5 Q If the Census Bureau does not make  
6 use -- if the Census Bureau concludes that the  
7 self-response data from the citizenship question  
8 should be disregarded with respect to the ultimate  
9 processing of the response data, would that use  
10 minimize response -- respondent burden --

11 A No.

12 MR. EHRLICH: Objection. Form.

13 THE WITNESS: No.

14 BY MS. GOLDSTEIN:

15 Q Alternative D has a higher respondent  
16 burden than Alternative C, correct?

17 A Yes.

18 MS. GOLDSTEIN: May I have one more  
19 exhibit, please?

20 (Plaintiffs' Exhibit 23, Secretary Ross  
21 decision memo, was marked.)

22 BY MR. HO:



1 Q I'm going to show you what has been  
2 marked as Plaintiffs' Exhibit 23. This is the  
3 decision memo from Secretary Ross dated  
4 March 26, 2018 that begins at Bates stamp 1313,  
5 and I'd like you to just turn to Page 1317.

6 So I'd like to direct you to the last  
7 half of the top paragraph on this page. The  
8 sentence that begins "Finally."

9 A Yes.

10 Q "Finally placing the question on the  
11 decennial census and directing the Census Bureau  
12 to determine the best means to compare the  
13 decennial census responses with administrative  
14 records will permit the Census Bureau to determine  
15 the inaccurate response rate for citizens and  
16 noncitizens alike using the entire population."

17 Has that statement been evaluated by the  
18 Census Bureau?

19 A As a statement of fact, that statement is  
20 correct.

21 Q Okay. "This will enable the  
22 Census Bureau to establish, to the best of its

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1 ability, the accurate ratio of  
2 citizen-to-noncitizen responses to impute for that  
3 small percentage of cases where it is necessary to  
4 do so."

5 How does adding a question -- a  
6 citizenship question to the census and determining  
7 the incorrect response rate for citizens and  
8 noncitizens who respond help the Census Bureau  
9 impute with respect to folks who do not respond at  
10 all and who do not have administrative records?

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11 A The Census Bureau did not write that  
12 sentence, so I suggest you ask the Secretary what  
13 he meant by it.

14 Q Well, let me back -- let me ask the  
15 question a slightly different way.

16 Do you agree that this will enable the  
17 Census Bureau to establish, to the best of its  
18 ability, the accurate ratio of citizen to  
19 noncitizen responses to impute for that small  
20 percentage of cases where it is necessary to do  
21 so?

22 A The Census Bureau does not yet have a

1 position on what percentage of cases it will be  
2 necessary to do so.

3 So the first part of the sentence, this  
4 will allow the Census Bureau to establish, to the  
5 best of its ability, accurate ratios of  
6 citizen-to-noncitizen responses, I don't think is  
7 controversial.

8 Q What about the second half of that  
9 sentence, that that -- I'm trying -- that ratio  
10 will aid the Census Bureau with its imputation for  
11 that category of folks who will be leftover?

12 A Second half of that sentence makes  
13 technical presumptions that the Census Bureau does  
14 not currently endorse.

15 Q Can you list those presumptions for me?

16 A Well, I'm not sure, because it's a very  
17 short sentence, and I would have to ask the  
18 Secretary what he meant by small, and why he  
19 thought that that particular ratio was what was  
20 going to be used to do the imputation.

21 I don't think there's anything in what  
22 the Census Bureau communicated, and technical

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1 responses to the Secretary, that indicated that  
2 that is the methodology that we would use to  
3 produce the CVAP table. We were, in fact, very  
4 careful to say that we hadn't yet finalized a  
5 methodology to do that, especially in the presence  
6 of multiple responses for the same -- what we'd  
7 call indicator.

8 Q So is it fair to say that at the very  
9 least, it is premature to say that this ratio will  
10 help the Census Bureau establish, to the best of  
11 its ability, an accurate ratio that will help you  
12 to impute for that small percentage -- for that  
13 whatever it is percentage of cases where it is  
14 necessary to do?

15 A Speaking on a purely statistical basis,  
16 having population data of self-responses and  
17 population data of administrative responses does  
18 contribute to more accurate statistical analysis.

19 As to how they would be used to impute  
20 the problematic cases in either direction, that is  
21 not yet determined.

22 Q And this is complicated by the

1 significant inaccuracy issues that were  
2 noticed -- that were noted in your technical  
3 memos, correct?

4 MR. EHRLICH: Objection. Form.

5 THE WITNESS: This is complicated by the  
6 need to resolve, with defensible evidence,  
7 conclusions that you draw from those  
8 inconsistencies, especially for the administrative  
9 record noncitizens.

10 BY MS. GOLDSTEIN:

11 Q So the Census Bureau has not yet  
12 completed its analysis that would support or not  
13 support Secretary Ross's conclusion in that  
14 sentence; is that fair to say?

15 A Yes.

16 MS. GOLDSTEIN: Let's take a short break  
17 and see where we're at. Off the record.

18 VIDEOGRAPHER: Going off the record. The  
19 time on the video is 5:59 p.m.

20 (Off the record.)

21 VIDEOGRAPHER: This begins Media Unit  
22 Number 7. The time on the video is 6:09 p.m. We

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1 are on the record.

2 BY MS. GOLDSTEIN:

3 Q Dr. Abowd, I think I have just one more  
4 question.

5 If you will turn to the last page of the  
6 exhibit in front of you Bates marked 1320.

7 A Okay.

8 Q In light of the Census Bureau's analysis  
9 of Alternative C versus Alternative D, do you  
10 agree that reinstatement of a citizenship  
11 question on the 2020 decennial census is necessary  
12 to provide complete and accurate data in response  
13 to the DOJ request?

14 A No.

15 Q And that is the position of the  
16 Census Bureau, correct?

17 A Yes.

18 MS. GOLDSTEIN:

19 Q Thank you, Dr. Abowd.

20 I just want the record to reflect and  
21 that plaintiffs -- and I speak to all plaintiffs  
22 with respect to this -- are leaving the record

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1 open, because, among other reasons, the documents  
2 that were produced last evening that we have not  
3 had time to review that are relevant to this  
4 deposition, both with respect to the underlying  
5 documents, as well as to how the documents relate  
6 to many of the topics listed in the 30(b)(6)  
7 deposition notice, as well as documents that were  
8 identified this afternoon that have not yet, to  
9 our knowledge, been produced. These include the  
10 Reingold documents, documents relating to the Y&R  
11 contract, the CBAMS microdata file that was given  
12 to Y&R, and the July extended white paper and  
13 possible other documents that we will confer with  
14 counsel on.

15 MR. EHRLICH: I think Dr. Abowd said the  
16 July white paper was the same as the August white  
17 paper we sent you.

18 MS. GOLDSTEIN: There were some small  
19 modifications. So to the extent there is another  
20 version of that white paper that should be  
21 produced to us, okay?

22 MR. EHRLICH: We can talk about that.

1 MS. GOLDSTEIN: Absolutely. Can we close  
2 the record or does counsel have questions --

3 MR. EHRLICH: I just --

4 MS. GOLDSTEIN: Not close the record.  
5 Leave the record open but end this deposition for  
6 today?

7 MR. EHRLICH: I just have a couple  
8 questions on open items that we wanted to close  
9 the loop on.

10 EXAMINATION BY MR. EHRLICH:

11 Q In terms of the 2010 census, who  
12 authorized the use of contingency funds?

13 A For the 2010 census, contingency funds  
14 had to be requested by the director from OMB. So  
15 OMB had to approve the release.

16 Q And for the 2020 census, is there a place  
17 you could find an amount of the contingency funds  
18 that are currently planned?

19 A Yes. The lifecycle cost estimate is a  
20 public document. It's on census.gov. I can  
21 supply find the URL or the search keywords that  
22 will find it, whichever you prefer.



1 Q And is there a place -- a place where you  
2 could find the expected enumeration from the  
3 administrative records?

4 A That's a component of the lifecycle cost  
5 estimates.

6 Q And why was it that the RCTs that we've  
7 discussed previously were not put into the field?

8 A Acting Deputy Director Lamas,  
9 Acting Director Jarmin, and Under Secretary Kelley  
10 conferenced about that proposal and determined  
11 that the 42 million households that had already  
12 asked -- had already answered the existing  
13 citizenship question constituted adequate testing  
14 and that we would use that question.

15 MR. EHRLICH: I have nothing else.

16 FURTHER EXAMINATION BY MS. GOLDSTEIN:

17 Q One follow-up question on that,  
18 Dr. Abowd. Sorry.

19 Was the Census Bureau team of experts  
20 consulted on Director Jarmin, Under Secretary  
21 Kelley and Dr. Lamas's decision not to put those  
22 RCTs into the field?

1           A     Tori Velkoff, although she's not an  
2     author of the paper that you got, was a member of  
3     the SWAT team. She had staff supported.

4                 So in these situations, the senior  
5     leadership of the Census Bureau consults with the  
6     internal experts they believe are most salient. I  
7     mean, Tori preferred the cost estimate, so that  
8     was -- that's who got consulted.

9           Q     So Ms. Velkoff got consulted?

10          A     Yes.

11          Q     Thank you.

12                 And were you -- were you consulted?

13          A     No.

14          Q     Thank you.

15                 VIDEOGRAPHER: This concludes today's  
16     video deposition. The time on the video is  
17     6:14 p.m. We are off the record.

18                 (Whereupon, at 6:14 p.m., the deposition  
19     of Dr. John Abowd was concluded.)  
20  
21  
22

\* \* \* \* \*

CERTIFICATE OF REPORTER

I, KAREN LYNN JORGENSEN, RPR, CSR, CCR the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in stenotype and thereafter reduced to typewriting under my direction; that the said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



-----  
KAREN LYNN JORGENSEN, RPR, CCR, CSR

Dated this 1st day  
of September , 2018.

ACKNOWLEDGEMENT OF DEPONENT

I, DR. JOHN ABOWD, do hereby acknowledge I have read and examined the foregoing pages of testimony, and the same is a true, correct and complete transcription of the testimony given by me, and any changes or corrections, if any, appear in the attached errata sheet signed by me.

\_\_\_\_\_  
Date

\_\_\_\_\_  
DR. JOHN ABOWD

Stephen Ehrlich, Esquire

U.S. DEPARTMENT OF JUSTICE

20 Massachusetts Avenue

Washington, D.C. 20530

IN RE: New York Immigration Coalition, et al., v.  
United States Department of Commerce, et al.

1 Dear Mr. Ehrlich:

2 Enclosed please find your copy of the  
3 deposition of DR. JOHN ABOWD, along with the  
4 original signature page. As agreed, you will be  
5 responsible for contacting the witness regarding  
6 signature.

7 Within 21 days of receipt of transcript,  
8 please forward errata sheet and original signed  
9 signature page to counsel for, John Freedman and  
10 all counsel of record.

11 If you have any questions, please do not  
12 hesitate to call. Thank you.

13 Yours,



14 Karen Lynn Jorgenson, RPR, CCR, CSR  
Capital Reporting Company  
15 1821 Jefferson Place, Northwest  
3rd Floor  
16 Washington, D.C. 20006  
(202) 857-3376

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cc: All counsel of record  
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E R R A T A S H E E T

Case Name: New York Immigration Coalition, et  
al., v. United States Department of Commerce, et  
al.,

Witness Name: DR. JOHN ABOWD

Deposition Date: Wednesday, August 29, 2018

| Page No. | Line No. | Change/Reason for Change |
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Signature

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Date

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2016. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.



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Summary: Census Bureau 30(b)(6) (John Abowd) Vol. 2 (October 5, 2018)

The Census Bureau produced a White Paper in response to DOJ's request. Tr. 351-53. Dr. Abowd's January 2018 memo to Secretary Ross [AR 1277] was based on a preliminary version of the White Paper, which constitutes the best analysis that the Bureau can do of the consequences of adding a citizenship question to the 2020 census, and of the quality of citizenship data available from different sources. Tr. 353-58. The Bureau agrees that the balance of evidence available suggests that adding a citizenship question to the 2020 census would lead to a lower self-response rate in households potentially containing noncitizens. Tr. 358.

On the ACS, item non-response (the failure to answer a particular question) and breakoff rates (the rate at which respondents stop answering the survey) are higher on the citizenship question for Hispanics as compared to non-Hispanic whites, and have increased. Tr. 359-64. The Bureau believes that the citizenship question will cause Hispanics' response rates to the 2020 Census to decline more than non-Hispanic whites' response rates. Tr. 364-69. The Bureau communicated to Commerce the empirical basis for its belief that the question will reduce response rates. Tr. 369-72. The Bureau conservatively estimates the question will reduce response rates among households with a noncitizen or a person of unknown citizenship status by 5.8 percentage points relative to all-citizen households. Tr. 372-77.

The Bureau has non-response follow-up (NRFU) methods to enumerate households that do not self-respond to the Census including in-person enumerators; but the Bureau believes that households that do not self-respond to the census because of the citizenship question are not likely to cooperate with an enumerator. Tr. at 425. The Bureau also uses proxies (e.g., neighbors) to obtain responses, but proxies are more likely to omit a person, and the Bureau believes that people who live in Census tracts with higher percentages of noncitizens are less likely to give proxy responses. Tr. 382-87. The Bureau will also use administrative records, but they are less frequently available for Hispanics and noncitizens. Tr. 387-92. The citizenship question may cause more households to omit a member when responding to the Census, but the Bureau does not employ NRFU if a household does so. Tr. 394-99. The Bureau conducted an analysis after the 2010 Census showing that Blacks and Hispanics were more frequently omitted, and undercounted, as compared to non-Hispanic whites. Tr. 399-407.

The Bureau compared Alternative C (using administrative records for CVAP data) and Alternative D (using both a citizenship question and administrative records, which Secretary Ross chose), and found that Alternative D results in worse CVAP data for various reasons: the question reduces self-responses, resulting in poorer-quality census responses which are in turn harder to match to administrative records; under Alternative D, the Bureau has no plan for how to address situations where a person's survey response as to citizenship status and their administrative records do not agree; and, although administrative records do not exist for everyone, and thus Alternative C requires imputing the citizenship status of some people, these imputation methods are more reliable than responses to the citizenship question. Tr. 407-24. The Bureau communicated its disagreement with Alternative D to the Commerce Department.

The Bureau received a proposal for a randomized control test (RCT) of the citizenship question, but it was rejected. Tr. 426-30. The Bureau believes that it does not make sense to include a citizenship question on the 2020 Census. Tr. 432-33. The Bureau can lock down the content of the Census questionnaire by June 30, 2019. Tr. 436-37. The Census Barriers, Attitudes, and Motivators Survey (CBAMS) includes 42 focus groups, many of which responded negatively to the citizenship question, including mainland US Spanish speakers. Tr. 437-62.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - x  
STATE OF NEW YORK, et al., :  
Plaintiffs, :  
vs. : Civil Action No.  
UNITED STATES DEPARTMENT OF : 1:18-cv-2921-JMF  
COMMERCE, et al., :  
Defendants. : Volume II

- - - - - x  
CONTINUED VIDEOTAPED 30(b)(6) DEPOSITION OF:  
UNITED STATES CENSUS BUREAU GIVEN BY JOHN M. ABOWD  
DATE: Friday, October 5, 2018  
TIME: 9:05 a.m.  
LOCATION: Arnold & Porter Kaye Scholer  
601 Massachusetts Avenue, N.W.  
Washington, D.C.  
REPORTED BY: Denise M. Brunet, RPR  
Reporter/Notary  
Veritext Legal Solutions  
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22 (Appearances continued on the next page.)



1 APPEARANCES (continued):

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3 On behalf of Defendants (continued):

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15 ALSO PRESENT: Nhat Pham, Videographer

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21

22

C O N T E N T S

|  |       |
|--|-------|
| EXAMINATION BY:  | PAGE: |
| Mr. Ho   | 349   |
| Ms. Fidler   | 436   |
| ABOWD DEPOSITION EXHIBITS:   | PAGE: |
| 24 - Bates COM_DIS00009833 - 9909  | 349   |
| 25 - Bates COM_DIS0012757 - 762  | 349   |
| 26 - DSSD 2010 Census Coverage Measurement<br>Memorandum Series #2010-G-01 | 399   |
| 27 - Proposed Content Test on Citizenship<br>Question                      | 425   |
| 28 - Bates COM_DIS00010669 - 684   | 436   |
| 29 - Bates COM_DIS0013025 - 55   | 436   |

(\*Exhibits attached to the transcript.)

1 P R O C E E D I N G S

2 (Abowd Deposition Exhibit Numbers 24 and  
3 25 were marked for identification.)

4 THE VIDEOGRAPHER: We're now on the  
5 record at 9:05 on October 5th, 2018. This is the  
6 continuation of the 30(b)(6) deposition of the  
7 Census Bureau, given by John Abowd, taken in the  
8 matter of the New York Immigration Coalition, et  
9 al., v. United States Department of Commerce, et  
10 al.

11 Our court reporter is Denise Brunet,  
12 camera operator is Nhat Pham, both on behalf of  
13 Veritext.

14 Attorneys present and attending remotely  
15 will be noted on the stenographic record. Will  
16 the court reporter please swear in the witness.  
17 WHEREUPON,

18 JOHN M. ABOWD,  
19 called as a witness, and having been sworn by the  
20 notary public, was examined and testified as  
21 follows:

22 EXAMINATION BY COUNSEL FOR

1 NEW YORK IMMIGRATION COALITION

2 BY MR. HO:

3 Q Good morning, Dr. Abowd.

4 A Good morning.

5 Q You understand that this is a  
6 continuation of your 30(b)(6) deposition which  
7 began on August 29th, 2018, correct?

8 A Yes, I do.

9 Q And do you understand that you remain  
10 under oath today to tell the truth?

11 A Yes, I do.

12 Q Is there any reason that you can't tell  
13 the truth today?

14 A No, there is not.

15 Q I would like to remind you not to jump in  
16 and answer questions before I've finished asking a  
17 question so that the court reporter can get  
18 everything down. Is that okay?

19 A Yes, sir.

20 Q In the interest of time, I'd like to  
21 request that if it's possible, you try to answer  
22 my questions, where appropriate, with a yes or a

1 no unless I'm unclear or if I've misstated  
2 something or if my question necessarily calls for  
3 a longer answer. Would that be okay?

4 A Yes, sir.

5 Q Okay. Picking up from last time, I've  
6 given you an exhibit that's been marked as  
7 Exhibit 24. Do you see that?

8 A Yes, sir.

9 Q Now, this is a white paper titled,  
10 Understanding the quality of alternative  
11 citizenship data sources for the 2020 census,  
12 dated August 6th, 2018, the first page of which  
13 has the Bates number COM\_DIS09833. Is that  
14 correct?

15 A Yes, sir.

16 Q Now, this document was created by the  
17 Census Bureau in the ordinary course of its  
18 business and not for litigation purposes, correct?

19 A That is correct.

20 Q I'm going to refer to this as the white  
21 paper. Okay?

22 A That's fine.

1 Q Now, the analysis in this white paper was  
2 begun in response to the Department of Justice's  
3 request for citizen voting age population data at  
4 the census block level, correct?

401;  
403

5 A Yes.

6 Q Now, the analysis in this paper attempts,  
7 among other things, to assess the quality of  
8 citizenship data available to the Census Bureau  
9 from different sources, like surveys and  
10 administrative records, correct?

11 A Yes.

12 Q The analysis in this paper also  
13 represents, among other things, the Census  
14 Bureau's efforts to assess the effect that the  
15 inclusion of a citizenship question would have on  
16 self-response rates the 2020 census; is that  
17 correct?

18 A May I make one clarification?

19 Q Sure.

20 A A white paper is produced as a research  
21 product by the authors and does not necessarily  
22 represent the views of the Census Bureau, but I do

1 today.

2 Q And the paper includes an assessment of  
3 the possible effect of the inclusion of the  
4 citizenship question on self-response rates to the  
5 2020 census, correct?

6 A Yes.

7 Q Now, the bureau is in the process of  
8 getting this white paper peer reviewed; is that  
9 right?

10 A Externally peer reviewed.

11 Q Why?

12 A We consider it a valuable scientific  
13 contribution made by the authors in the course of  
14 their work. The authors are in research positions  
15 at the Census Bureau, and so part of their job  
16 requirement is to have their technical work  
17 externally peer reviewed and appear in the  
18 scientific journals.

19 Q Is this the most recent version of the  
20 paper currently available?

21 A Yes, sir.

22 Q The authors of the white paper, they are

1 the members of the SWOT team that you assembled at  
2 the direction of Acting Census Bureau Director Ron  
3 Jarmin to respond to the DOJ request, correct?

4 A A subset, yes.

5 Q Is there anyone better at the Census  
6 Bureau for conducting the analysis that --  
7 contained in the white paper other than the  
8 authors of the white paper?

9 A I honestly don't know.

10 Q You wouldn't have chosen people who  
11 weren't the best people for this job, would you,  
12 Dr. Abowd?

13 A I attempted to choose the best people  
14 known to me for this job, yes.

15 Q Do you think you succeeded in choosing  
16 the best people known to you for conducting this  
17 analysis?

18 A Yes, sir.

19 Q To your right, there's a document that  
20 was marked as Exhibit 7 early -- during the first  
21 part of your deposition. This is a memo under  
22 your name dated January 19th, 2018. Do you see



1 that?

2 A Yes, sir.

3 Q Now, this memo of yours, Exhibit 7,  
4 relies on a preliminary version of the analysis  
5 that's contained in the white paper; is that  
6 right?

7 A Yes.

8 Q Is it fair to say that the white paper  
9 that's Exhibit 24 represents an extended and more  
10 up-to-date version of the analysis that you relied  
11 on in preparing your memo, Exhibit 7?

12 A Yes.

13 Q Now, in the -- we don't have to talk  
14 about your memo anymore. Just back to the white  
15 paper. In the Census Bureau's view, the various  
16 analyses contained in the white paper, Exhibit 24,  
17 were methodologically appropriate for the  
18 questions that the white paper attempted to  
19 answer, correct?

20 A Yes.

21 Q Now, does this white paper represent the  
22 Census Bureau's best possible analysis based on

1 existing data regarding the impact of the  
2 citizenship question on self-response rates to the  
3 2020 census?

4 A I would say it represents the primary  
5 research effort, but not all of the research  
6 effort.

7 Q And when you say it represents the  
8 primary research effort, would you say that it  
9 represents the best analysis that the Census  
10 Bureau has of the possible effect of adding the  
11 citizenship question on self-response rates for  
12 the 2020 census?

13 A I think it provides the inputs for doing  
14 the best analysis that we can of the consequences  
15 of the question on the 2020 census.

16 Q Is there any better analysis that the  
17 Census Bureau has of the effect of adding the  
18 citizenship question on self-response rates to the  
19 2020 census that's not contained in the white  
20 paper?

21 A There's one additional analysis in my  
22 expert report that's already been disclosed that

1 is not in the white paper.

2 Q Okay. Which analysis is that  
3 specifically?

4 A The one of the short-form test that  
5 followed the 1990 census.

6 Q Does the white paper represent the Census  
7 Bureau's best possible analysis of existing data  
8 regarding the quality of citizenship data that's  
9 available from different sources, such as surveys  
10 and administrative records?

11 A Yes.

12 Q Does the Census Bureau agree with the  
13 conclusions expressed in the white paper?

14 A I'll deal with that on a specific  
15 conclusion-by-conclusion basis.

16 Q As a general matter, are there  
17 conclusions in the white paper -- I'm sorry.

18 Are there conclusions in the white paper  
19 that the Census Bureau disagrees with?

20 A There are no conclusions in the white  
21 paper that the Census Bureau disagrees with.  
22 There are some of the author's interpretations

1 that I might not agree with.

2 Q Let's turn to page 2 of the white paper,  
3 Bates COM\_DIS09834. The last sentence of the  
4 abstract reads, "The evidence in this paper also  
5 suggests that adding a citizenship question to the  
6 2020 census would lead to lower self-response  
7 rates in households potentially containing  
8 non-citizens, resulting in higher field work costs  
9 and a lower quality population count."

10 Did I read that accurately?

11 A Yes, you did.

12 Q Does the Census Bureau agree that the  
13 balance of evidence available suggests that adding  
14 a citizenship question to the 2020 census would  
15 lead to lower self-response rates in households  
16 potentially containing non-citizens?

17 A Yes.

18 Q Does the Census Bureau agree that the  
19 balance of evidence available suggests that adding  
20 a citizenship question to the 2020 census would  
21 lead to a lower quality population count?

22 A I have to define lower quality population

1 count to answer that question. May I?

2 Q Yes, please.

3 A So the usual accuracy measures are two:  
4 Net undercount and then its components, gross  
5 omissions and erroneous enumerations and  
6 whole-person census imputations. We have no  
7 evidence that it would affect the quality as  
8 regards net undercount. We have evidence that it  
9 would affect the count -- the quality as regards  
10 components of the errors in the enumeration.

11 Q We'll get back to that. Thank you for  
12 that clarification.

13 Could you turn to page 8 in the white  
14 paper, Bates number COM\_DIS09840? And I want to  
15 look at figure 1, panel A. This graph shows item  
16 non-response, which is the failure to answer  
17 certain questions, on the American Community  
18 Survey, or ACS, in the year 2016, broken down by  
19 various racial and ethnic subgroups; is that  
20 correct?

21 A Racial, ethnic and demographic subgroups,  
22 yes.

1 Q And the data here does not distinguish  
2 between citizens and non-citizens, correct? I'm  
3 referring to panel A only.

4 A Oh. That's correct.

5 Q So in panel A, when we look at data for a  
6 group like Hispanics on this chart, we're talking  
7 about a group that includes both Hispanic citizens  
8 and Hispanic non-citizens, correct?

9 A Correct.

10 Q Is it fair to say that on the ACS in 2016  
11 the item non-response rate for Hispanics on the  
12 citizenship question was more than twice as high  
13 as it was for non-Hispanic whites?

14 A Yes.

15 Q And let's look at figure 1, panel B on  
16 the same page. Now, this graph shows item  
17 non-response rates on the ACS in 2016 for  
18 respondents who were identified in the NUMIDENT  
19 data as non-citizens broken down by racial, ethnic  
20 and demographic subgroups, correct?

21 A Correct.

22 Q And is it fair to say that on the 2016

1 ACS, the item non-response rate for Hispanic  
2 non-citizens on the citizenship question was more  
3 than twice as high as it was for non-Hispanic  
4 white non-citizens?

5 A Yes.

6 Q Let's look at page 11, Bates number  
7 COM\_DIS9843, table 1. This table lists the  
8 breakoff rates for various questions on the ACS  
9 broken down by race and ethnicity, correct?

10 A Correct.

11 Q And the breakoff rate is the rate at  
12 which, when people are responding to the ACS  
13 questionnaire online, that they stop answering the  
14 survey upon encountering a screen with a  
15 particular question, correct?

16 A Correct.

17 Q If we look at the breakoff rates to the  
18 citizenship question and compare Hispanics to  
19 non-Hispanic whites, the breakoff rate on the 2016  
20 ACS for Hispanics on the citizenship question is  
21 more than ten times what it is for non-Hispanic  
22 whites, correct?

1 A Yes.

2 Q Can we look back at page 10, Bates number  
3 COM\_DIS9842? In the last paragraph, about a  
4 little more than halfway down, the third to last  
5 sentence starts with "Citizenship-related  
6 questions." It reads, "Citizenship-related  
7 questions have the most heterogenous rates across  
8 race/ethnicity groups; the ratio of breakoff rates  
9 for Hispanics versus non-Hispanic whites is much  
10 higher for year of entry and citizenship than any  
11 of the other question screens in the ACS, except  
12 for English proficiency, included in table 1 for  
13 reference purposes."

14 Now, in the view of the Census Bureau,  
15 what is the significance of the observation that  
16 breakoff rates for Hispanics versus non-Hispanic  
17 whites are much higher for year of entry and  
18 citizenship than any other question screen on the  
19 ACS, except for English proficiency?

20 A That the question is sensitive to that  
21 subpopulation.

22 Q When you say the question is sensitive to



1 that subpopulation, you mean it is -- the  
2 citizenship question is sensitive for Hispanics  
3 relative to non-Hispanic whites?

4 A Yes.

5 Q I want to ask you about what's been  
6 premarked as Exhibit 25, just to your right. It's  
7 a chart, the footer of which reads, 2017 breakoff  
8 rates by race group augmented 20180915.pdf, and  
9 the first page is Bates number 126757. Do I have  
10 that right?

11 A Mine says 20180917.pdf.

12 Q Sorry.

13 A Okay.

14 Q Other than that?

15 A Yes.

16 Q Okay. Now, let's look at the citizenship  
17 question breakoff rate on the 2017 ACS for  
18 non-Hispanic whites. That rate is .03489 percent,  
19 correct?

20 A Correct.

21 Q And the citizenship question breakoff  
22 rate on the 2017 ACS for Hispanics is

1 .4343 percent, correct?

2 A Yes.

3 Q So on the 2017 ACS, is it correct to say  
4 that the citizenship question breakoff rate for  
5 Hispanics is more than 12 times what it is for  
6 non-Hispanic whites?

7 A I didn't calculate the ratio myself, but  
8 that looks about right.

9 Q Okay. And if you look back to the 2016  
10 ACS breakoff rates on page 11 of the white paper  
11 and compare them to the 2017 breakoff rates, is it  
12 correct that the citizenship question breakoff  
13 rate for non-Hispanic whites stayed about the same  
14 in 2016 and 2017?

15 A Yes.

16 Q And is it correct that the citizenship  
17 question breakoff rate for Hispanics increased  
18 between 2016 and 2017?

19 A The point estimate increased. I didn't  
20 calculate a margin of error of the difference.

21 Q Okay. Now, is it correct to say, given  
22 the analysis of item non-response rates and

1 breakoff rates that we've talked about, that the  
2 Census Bureau believes that it is more likely than  
3 not that Hispanics will respond to the citizenship  
4 question on the 2020 census at a lower rate than  
5 non-Hispanic whites?

6 A Yes.

7 Q Is it also correct to say that the Census  
8 Bureau believes, based on the item non-response  
9 and breakoff rate analyses that we've discussed,  
10 that it is more likely than not that there will be  
11 a greater decline in unit self-response rates to  
12 the 2020 census due to the citizenship question  
13 among Hispanics than there will be among  
14 non-Hispanic whites?

15 A I'm not prepared to draw that conclusion  
16 from the analysis that you just showed me. Do you  
17 have other analyses you want me to look at?

18 Q Well, let's stay here. Is it fair to say  
19 that none of the analyses of ACS data that the  
20 Census Bureau has conducted suggests that  
21 self-response rates to the 2020 census among  
22 Hispanics and non-Hispanic whites will decline at

1 the same rate as a result of the citizenship  
2 question?

3 THE WITNESS: Could you read the question  
4 back, please?

5 (The reporter read the record as  
6 requested.)

7 THE WITNESS: Yes.

8 BY MR. HO:

9 Q Is it fair to say that the Census Bureau  
10 believes that unit self-response rates to the 2020  
11 census will decline more among Hispanics than  
12 non-Hispanic whites as a result of the citizenship  
13 question?

14 A To the extent that Hispanic is correlated  
15 with households containing non-citizens or persons  
16 of unknown citizenship status, yes.

17 Q Let's go back to the white paper and  
18 let's look at page 9, Bates number COM\_DIS09841.  
19 And I'm looking at figure 2, panel A. This graph  
20 shows the difference in item non-response on  
21 various questions comparing the 2013 and 2016 ACS  
22 broken down by various racial, ethnic and

1 demographic subgroups, correct?

2 A Yes.

3 Q And according to the Census Bureau's  
4 analysis, for non-Hispanic whites, non-response to  
5 the citizenship on the ACS did not change between  
6 2013 and 2006 [sic], correct?

7 A Yes.

8 Q And according to the Census Bureau's  
9 analysis for Hispanics, non-response to the  
10 citizenship question on the ACS increased between  
11 2013 and 2016, correct?

12 A Yes.

13 Q And during this same period for  
14 Hispanics, non-response to the sex question on the  
15 ACS actually decreased between 2013 and '16,  
16 correct?

17 A Hispanics, right?

18 Q Yes.

19 A Yes.

20 Q Let's go to the next page, page 10, and  
21 I'm looking at figure 2, panel B. This is the  
22 same analysis comparing 2013 and 2016 item

1 non-response rates but among individuals  
2 identified as non-citizens in the NUMIDENT data,  
3 correct?

4 A Yes.

5 Q And according to the Census Bureau's  
6 analysis, for non-Hispanic white non-citizens,  
7 non-response to the citizenship question on the  
8 ACS increased by less than 0.5 percentage points  
9 between 2013 and '16, correct?

10 A Yes.

11 Q And during the same period, for Hispanic  
12 non-citizens, non-response to the citizenship  
13 question on the ACS increased by more than 1.5  
14 percentage points, correct?

15 A Yes.

16 Q So is it fair to say that among  
17 non-citizens, the non-response rate to the  
18 citizenship question on the ACS between 2013 and  
19 2016 increased for Hispanics at more than three  
20 times the rate that it did for non-Hispanic  
21 whites?

22 A Yes.

1 Q Is it fair to say that, based on the  
2 Census Bureau's analysis of item non-response  
3 rates and breakoff rates, that the Census Bureau  
4 believes that Hispanics are more sensitive to  
5 survey questions about citizenship than they were  
6 a few years ago?

7 A Yes.

8 Q Is it fair to say that based on its  
9 analysis of item non-response rates and breakoff  
10 rates, the Census Bureau believes that whites are  
11 not more sensitive to citizenship questions than  
12 they were a few years ago?

13 A Yes.

14 Q Is it fair to say that the Census Bureau  
15 believes that, among non-citizens in particular,  
16 the sensitivity of Hispanics to survey questions  
17 about citizenship has grown more than it has for  
18 non-Hispanic whites?

19 A Yes.

20 Q Now, you testified during one of your  
21 depositions that the Census Bureau's best estimate  
22 as to the differential effect of the citizenship

1 question on self-response rates for non-citizens  
2 is that the addition of the citizenship question  
3 will cause non-citizen self-response rates to  
4 decline by 5.8 percentage points relative to  
5 citizens, correct?

6 A Households containing a non-citizen or a  
7 person of unknown citizenship status relative to  
8 households containing all persons with known  
9 citizenship status -- known citizens. And then --  
10 yes.

11 Q Yes, that's correct?

12 A With my correction of your definitions,  
13 yes.

14 Q Okay. Now, given that opinion, if  
15 someone said to you that the Census Bureau could  
16 not articulate a rationale to support its belief  
17 that there would be a decline in the response rate  
18 as a result of adding the citizenship question to  
19 the 2020 census and that the Census Bureau simply  
20 made an assumption that the self-response rate  
21 would decline, would you agree with that person?

22 A No.

Vague;  
Compound;  
Calls for  
speculation



1 MR. EHRLICH: Objection. Form.

2 THE WITNESS: Sorry.

3 BY MR. HO:

4 Q Did you ever tell --

5 THE WITNESS: Did my answer of "no" get  
6 recorded?

7 THE REPORTER: Yes, it did.

8 THE WITNESS: Thank you.

9 MR. HO: Thank you.

10 BY MR. HO:

11 Q Did you ever tell Earl Comstock from the  
12 Department of Commerce or give him the impression  
13 that the Census Bureau could not articulate a  
14 rationale to support its belief that there would  
15 be a decline in the self-response rate to the 2020  
16 census as a result of the citizenship question?

17 A No.

18 Q Did you, in fact, ever explain to  
19 Mr. Comstock the basis for the Census Bureau's  
20 belief that the addition of the citizenship  
21 question would reduce self-response rates to the  
22 2020 census?

1 A Yes.

2 Q Now, the Census Bureau's estimate of a  
3 5.8 percentage point reduction of households  
4 containing a non-citizen or someone of unknown  
5 citizenship status relative to households  
6 containing all citizens, that's an upward revision  
7 of an earlier estimate of a 5.1 percentage point  
8 reduction, right, Dr. Abowd?

9 A The two numbers aren't directly  
10 comparable because the reference populations  
11 aren't the same. It is a bigger number, but it  
12 applies also to a larger reference population.

13 Q Okay. And let me see if I understand  
14 this. The difference is -- the 5.1 percentage  
15 point differential was a comparison of households  
16 with a non-citizen as compared to all-citizen  
17 households; is that right?

18 A Where both of those are administrative  
19 record definitions of citizen, that's correct.

20 Q Okay. And the 5.8 percentage point  
21 number, that is a comparison of households where  
22 there is a non-citizen as identified by the

1 administrative records or a person with unknown  
2 citizenship status in the administrative records  
3 compared to households with all citizens as  
4 defined in the administrative records, correct?

5 A Not quite. Th all household population  
6 had to be both in administrative records and  
7 self-declared. And then the comparison group is  
8 every other household.

9 Q Got it. Okay. So let me try this again.  
10 The 5.8 percentage point number, that's a  
11 comparison of households where the response to the  
12 ACS and the administrative records indicate that  
13 every member of the household is a citizen and all  
14 other households, right, Dr. Abowd?

15 A Yes.

16 Q Okay. That analysis -- if we look at  
17 page 38 of the white paper, Bates number  
18 COM\_DIS09870, that analysis producing the 5.8  
19 percentage point differential that we've  
20 discussed, that is set forth on this table,  
21 correct?

22 A Which table are you asking me to

1 reference?

2 Q Table 8.

3 A And which number?

4 Q The 5.8 percentage point differential.

5 A No, you have the wrong table.

6 Q Okay. Could you show me --

7 A Although you have that right number.

8 Q Could you show me the right table?

9 A 9, second panel.

10 Q Got it. Okay. So this analysis, the 5.8  
11 percentage point -- that produces the 5.8  
12 percentage point differential, that's based on a  
13 comparison of 2016 ACS data to -- response rates,  
14 I'm sorry, to 2010 decennial response rates,  
15 correct?

16 A Yes.

17 Q Okay. So in the Census Bureau's  
18 estimation, it's more accurate -- if you're trying  
19 to assess the impact of the addition of the  
20 citizenship question on self-response rates, it's  
21 more reliable to use more recent ACS non-response  
22 data in calculating your estimate; is that

Vague;  
Calls for  
speculation

1 correct?

2 MR. EHRLICH: Objection. Form.

3 THE WITNESS: Generally, yes.

4 BY MR. HO:

5 Q Let's look at page 46 of the report,  
6 Bates number COM\_DIS9878, and I'm looking at the  
7 third full paragraph here.

8 A "As mentioned above"?

9 Q "As mentioned above." It reads, "As  
10 mentioned above, the estimated reduction in  
11 self-response due to the inclusion of a  
12 citizenship question is based on a comparison of a  
13 long 2010 ACS questionnaire to a short 2010 census  
14 questionnaire. The visibility of the citizenship  
15 question may be more prominent when added to a  
16 short questionnaire, resulting in a larger  
17 reduction in self-response than what we have  
18 estimated here."

19 Did I read that right?

20 A Yes, you did.

21 Q Would it be accurate to say that the  
22 Census Bureau believes that the effect of a

1 citizenship question in terms of reducing response  
2 rates among households that have a non-citizen or  
3 someone of undefined citizenship status,  
4 et cetera, as compared to all citizen households  
5 might be even larger than 5.8 percentage points  
6 because that estimate is based on ACS data, and  
7 here the citizenship question would have more  
8 prominence on the relatively shorter 2020 census  
9 questionnaire?

10 A If the question is does the Census Bureau  
11 agree with the question -- with the sentences in  
12 the paragraph that you read me, the answer is yes.

13 Q Okay. Let me try this again. Does the  
14 Census Bureau believe that 5.8 percentage  
15 points -- that that estimate is conservative? Let  
16 me stop there.

17 A Yes.

18 Q Okay. And one of the reasons why the  
19 Census Bureau believes that that estimate is  
20 conservative is that it's based on ACS  
21 non-response rates, whereas, here, if you add the  
22 citizenship question to the census questionnaire,

1 the citizenship question could have more  
2 prominence and a greater effect in terms of  
3 reducing self-response rates; is that right,  
4 Dr. Abowd?

5 A Yes.

6 Q Now -- okay. The Census Bureau's view,  
7 Dr. Abowd, which you articulated earlier, is that  
8 the Census Bureau is going to enumerate most of  
9 the people who failed to respond to the census  
10 questionnaire because of the citizenship question;  
11 is that right?

12 MR. EHRLICH: Objection. Form.

13 THE WITNESS: The vast majority, yes.

14 BY MR. HO:

15 Q Now, one of the ways that you have of  
16 enumerating people when their household does not  
17 self-respond to the census questionnaire is by  
18 sending census enumerators in person to that  
19 household, correct?

20 A That's correct.

21 Q And we would call that -- we could call  
22 that part of the non-response follow-up, or

1 N-R-F-U. I'm going to call it NRFU during the  
2 deposition. Is that okay?

3 A That's fine. I say NRFU, but it's a  
4 matter of style.

5 Q Let's look at page 42 of the white paper,  
6 Bates number COM\_DIS9874. And I'm looking at the  
7 last paragraph, last complete sentence, starting  
8 with, "This analysis." It reads, "This analysis  
9 assumes that, during the NRFU operations, a  
10 cooperative member of the household supplies data  
11 79.0 percent of the time, and 21.0 percent receive  
12 proxy responses."

13 In that sentence, the phrase "this  
14 analysis" refers to the Census Bureau's cost  
15 analysis of the effect of adding the citizenship  
16 question to the 2020 census, correct?

17 A The particular cost analysis in the  
18 paragraph that you're reading, yes.

19 Q Okay. Now, in generating this cost  
20 analysis about the effect of adding the  
21 citizenship question to the 2020 census, the  
22 Census Bureau assumed that of the households that



1 do not respond to the census questionnaire because  
2 of the citizenship question, 79 percent will  
3 respond to an in-person enumerator, correct?

4 A Yes.

5 MR. EHRLICH: Objection. Form.

6 THE WITNESS: Yes.

7 BY MR. HO:

8 Q Let's turn back to the previous page,  
9 page 41, Bates number COM\_DIS9873. The last  
10 paragraph on this page, the second sentence, four  
11 lines down, reads, "Households deciding not to  
12 self-respond because of the citizenship question  
13 are likely to refuse to cooperate with enumerators  
14 coming to their door in NRFU, resulting in the use  
15 of neighbors as proxy respondents on their  
16 behalf."

17 Does the Census Bureau agree with that  
18 sentence?

19 A That's one of the places where the  
20 authors are stating their own opinion.

21 Q Okay. Does the Census Bureau agree with  
22 that sentence, Dr. Abowd?

1 A Not completely.

2 Q Is there an empirical basis for the  
3 Census Bureau's incomplete agreement with that  
4 sentence?

5 A The sentence represents a summary of  
6 qualitative evidence with which the Census Bureau  
7 agrees that hard-to-count subpopulations are less  
8 cooperative in NRFU and, to that extent, the  
9 Census Bureau agrees with that sentence.

10 Q Okay. And that sentence was written by  
11 the authors of this white paper whom you selected  
12 as the best people at the Census Bureau to conduct  
13 the analysis reflected in the white paper,  
14 correct, Dr. Abowd?

15 A Yes.

16 Q Let's turn forward two pages to page 43,  
17 Bates number COM\_DIS09875. And let's look at  
18 footnote 60, which reads, "These enumeration  
19 errors may not be avoidable simply by spending  
20 more money on field work. Once a household  
21 decides not to cooperate, it may not be possible  
22 to obtain an accurate enumeration no matter how

1 many times an enumerator knocks on their door."

2 In this footnote, the term "these  
3 enumeration errors" refers to enumeration errors  
4 that arise as a result of increased non-response  
5 to the census questionnaire due to the addition of  
6 a citizenship question, correct?

7 A Yes.

8 Q And the view of the Census Bureau is that  
9 enumeration errors arising from the decline in  
10 self-response caused by the citizenship question  
11 may not be avoidable simply by spending more money  
12 on field work, correct?

13 A Yes.

14 Q And it is the view of the Census Bureau  
15 that once a household decides not to cooperate  
16 with the census because of the citizenship  
17 question, it may not be possible to obtain an  
18 accurate enumeration of that household no matter  
19 how many times an enumerator knocks on their door,  
20 correct?

21 A Accurate in this sentence means erroneous  
22 enumerations and whole-person census imputations.

1 It does not mean net undercount.

2 THE REPORTER: Could you please repeat  
3 your answer.

4 THE WITNESS: Accurate enumeration in  
5 this sentence means enumeration errors and  
6 whole-person census imputations. It does not mean  
7 net undercount.

8 BY MR. HO:

9 Q Now, if you send an in-person enumerator  
10 to a household that doesn't self-respond and that  
11 doesn't result in a response, one way that you  
12 could -- another way you could have of enumerating  
13 that household is through a proxy response, which  
14 means trying to obtain a response from someone who  
15 is not a member of that household about that  
16 household, correct?

17 A Yes.

18 Q And the Census Bureau agrees that proxy  
19 enumeration generally results in lower quality  
20 enumeration data than self-responses, correct?

21 A Yes.

22 Q And the Census Bureau agrees that a proxy

1 response is more likely to result in the omission  
2 of a household member than a self-response,  
3 correct?

4 A I haven't looked at the table recently,  
5 but I believe that's correct, yes.

6 Q Let's go to the white paper again. And I  
7 want to look at page 12, Bates number  
8 COM\_DIS09844, figure 3.

9 A Figure 3, did you say?

10 Q I believe so. On page 12?

11 A Okay. I thought I heard 4.

12 Q Okay. Figure 3 depicts unit non-response  
13 to the ACS from 2010 through 2016 comparing census  
14 tracts with the lowest decile of housing units  
15 containing a non-citizen to the census tracts in  
16 the highest decile of housing units containing a  
17 non-citizen, correct?

18 A Correct.

19 Q And for each year of ACS depicted here,  
20 census tracts in the highest decile of housing  
21 units containing a non-citizen have a lower  
22 response rate to the ACS than do census tracts in

1 the lowest decile of housing units with a  
2 non-citizen, correct?

3 A Yes.

4 Q And for both groups, unit non-response to  
5 the ACS declined between 2010 and 2016, correct?

6 A No. It increased between 2010 and 2011  
7 and then declined from 2011 forward.

8 Q But if we just compare 2016 to 2010 --

9 A Yes.

10 Q -- the unit non-response rate for both  
11 groups in 2016 was lower than it was in 2010,  
12 correct?

13 A That's correct, yes.

14 Q Okay. And the decline amongst -- I'm  
15 sorry, let me start that again.

16 The decline in census tracts in the  
17 highest decile of housing units including a  
18 non-citizen -- the decline in unit self-response  
19 rates for that group was sharper than the decline  
20 in unit self-response rates by households in  
21 census tracts with the -- in the lowest decile of  
22 housing units with a non-citizen, correct?

1           A       I think the answer to your question is  
2       yes. Does the record reflect colors?

3           Q       We'll put it in in color. That's the  
4       orange line, right?

5           A       The orange line declines more sharply  
6       than the blue line.

7           Q       Now, last time in your deposition, we  
8       talked about a similar census tract stratification  
9       analysis for ACS NRFU efforts. Does that ring a  
10      bell?

11          A       Yes.

12          Q       Okay. And you remember that census  
13       tracts with higher percentages of households  
14       including a non-citizen had lower ACS NRFU success  
15       rates than census tracts with lower percentages of  
16       non-citizens?

17          A       So -- I think you're right, but I don't  
18       want to rely on my memory. If you show me the  
19       exhibit, I will answer the question. But I'm not  
20       sure --

21          Q       Okay.

22          A       -- that you and I are both referring to

1 the same exhibit.

2 Q Okay. Well, given what we've talked  
3 about, that unit non-response is lower in census  
4 tracts that have higher percentages of  
5 non-citizens and that ACS NRFU is less successful  
6 in census tracts that have higher percentages of  
7 households including a non-citizen, does the  
8 Census Bureau expect that people who live in  
9 census tracts with higher percentages of  
10 households with a non-citizen would also be less  
11 likely to provide proxy responses to the census  
12 than people who live in other areas?

13 A Accepting your premise about my testimony  
14 from before, the Census Bureau believes that that  
15 is likely, yes.

16 Q Let's look at page 43 of the white paper,  
17 Bates number COM\_DIS09875. Let's look at the last  
18 full paragraph on this page. About halfway down,  
19 the second to last sentence starts -- it's about  
20 halfway down in that paragraph. The second to  
21 last sentence starts with, "As shown above."

22 A Yes.



1 Q "As shown above, reference persons are  
2 much less likely to answer the citizenship  
3 question for non-relatives in the household than  
4 for themselves, so may be even less likely to  
5 answer it for neighbors."

6 Does the Census Bureau agree with the  
7 statement that people are less likely to answer  
8 the citizenship question for their neighbors than  
9 for themselves?

10 A Yes.

11 Q Now, another way that you can enumerate  
12 people when they don't self-respond to the census  
13 is to try to enumerate them using administrative  
14 records like tax returns; is that right?

15 A All the way up to "like tax returns,"  
16 yes.

17 Q Okay. Forget the tax returns. One way  
18 that -- if you don't get a self-respond to the  
19 census questionnaire, one way that you might try  
20 to enumerate that household is with administrative  
21 records, correct?

22 A Yes.

1           Q       Let's look at page 17 of the white paper,  
2       Bates number COM\_DIS09849. Looking at figure 4,  
3       titled, Percent without administrative record or  
4       ACS citizenship in 2016. Now, the solid bars,  
5       which are the color blue on this graph, those show  
6       the percentage of 2016 ACS respondents broken down  
7       by racial, ethnic and demographic subgroups who  
8       cannot be linked to an administrative record  
9       indicating citizenship status, correct?

10          A       Correct.

11          Q       Now, the first paragraph on this page,  
12       the second sentence reads, "Note that the linkage  
13       between the ACS and administrative data from the  
14       SSA NUMIDENT and IRS ITIN tax filings depends on  
15       two factors: (a) the quality of the personally  
16       identifiable information (PII) on the ACS  
17       response; and (b) whether the ACS respondent is in  
18       the SSN/ITIN universe."

19                 Did I read that right?

20          A       Yes.

21          Q       Okay. So here, the authors of the white  
22       paper are explaining that there are two reasons

1 primarily why the Census Bureau would be unable to  
2 link an ACS respondent to an administrative record  
3 indicating citizenship status: One, because the  
4 personally identifiable information on the survey  
5 response might not be high quality enough to link  
6 that person to administrative records; and, two,  
7 because the survey respondent is not in the  
8 administrative records at all; is that correct?

9 MR. EHRLICH: Objection. Form.

10 THE WITNESS: Yes.

11 BY MR. HO:

12 Q And if we look back at the graph,  
13 figure 4, among 2016 ACS respondents, Hispanics  
14 could not be linked to an administrative record at  
15 a higher rate than non-Hispanic whites, correct?

16 A Correct.

17 Q Now, based on this data, would you agree  
18 that the available evidence indicates that the  
19 Census Bureau, generally speaking, cannot link  
20 Hispanic survey respondents to administrative  
21 records at as high a rate as it can for  
22 non-Hispanic whites?

1           A       Yes.

2           Q       The administrative records referenced  
3       here are the SSA and tax records, correct?

4           A       The individual tax identification number  
5       records.

6           Q       You corrected me earlier when we talked  
7       about enumeration via administrative records.  
8       Could you just clarify what administrative records  
9       the Census Bureau relies on when it tries to  
10      enumerate people using administrative records?

11          A       There's two parts to the process for  
12      using administrative records for enumeration. One  
13      part is performing the record linkage to identify  
14      all of the administrative records that might apply  
15      to a particular household. And the other part is  
16      constructing a candidate administrative record  
17      enumeration to be used during the NRFU process if  
18      the first NRFU follow-up visit doesn't produce a  
19      successful interview.

20                 In the former part of the process,  
21      there's extensive use of tax records. In the  
22      latter part of the process, by agreement with the

1 IRS, none of the tax data survive to the record  
2 that will be used for a candidate enumeration.  
3 That was the distinction I was trying to...

4 Q Would you agree that undocumented  
5 individuals are less likely to be found in the  
6 administrative records -- and when I say  
7 undocumented individuals, I mean undocumented  
8 immigrants -- are less likely to be found in the  
9 administrative records that the Census Bureau uses  
10 to enumerate people than persons who have legal  
11 status in this country?

12 A Yes.

13 Q And would you agree that the Census  
14 Bureau would have a more difficult time  
15 enumerating undocumented immigrants through the  
16 use of administrative records than it will for  
17 persons with legal status?

Vague;  
Calls for  
speculation

18 MR. EHRLICH: Objection. Form.

19 THE WITNESS: Yes.

20 BY MR. HO:

21 Q Overall, would you agree that the Census  
22 Bureau does not expect enumeration by

1 administrative records to be as successful for  
2 non-citizens as it is for citizens?

3 MR. EHRLICH: Objection. Form.

Vague;  
Calls for  
speculation

4 THE WITNESS: Yes.

5 BY MR. HO:

6 Q Let's go to page 5 of the white paper,  
7 Bates number COM\_DIS09837. And I'm looking at the  
8 last paragraph on the page that starts with,  
9 "Camarota."

10 "Camarota and Capizzano, 2004, conducted  
11 focus groups with over 50 field representatives  
12 (FRs) for the 2000 supplemental survey, a pilot  
13 for the ACS. FRs reported that foreign-born  
14 respondents living in the country illegally or  
15 from countries where there is distrust in  
16 government were less likely to cooperate. Some  
17 foreign-born respondents failed to list all  
18 household members. FRs suspected that some  
19 foreign-born respondents misreported citizenship  
20 status, and they" -- continuing to the next  
21 page -- "believed this was due to recall bias, a  
22 fear of the implications of certain responses or a

1 desire to answer questions in a socially desirable  
2 way."

3 Did I read that right?

4 A Yes.

5 Q Okay. Now essentially what the white  
6 paper authors are stating here is that in a study  
7 of a survey that was a precursor to the ACS which  
8 contained a citizenship question, the researchers  
9 conducting that study found that foreign-born  
10 people responding to the survey sometimes did not  
11 list all the members of their households, correct?

12 A The focus group evidence was that, yes.

13 THE REPORTER: The focus group...

14 THE WITNESS: The focus group evidence  
15 was as described.

16 BY MR. HO:

17 Q And essentially -- sorry, let me start  
18 again.

19 Separate and apart from this study, the  
20 Census Bureau has determined that one of the  
21 reasons in past censuses for the undercounting of  
22 Hispanics is because of the failure of Hispanic

1 households to include a response for every member  
2 of their household, such as children, correct?

3 MR. EHRLICH: Objection. Form.

4 THE WITNESS: Are you referring to a  
5 specific study that you want me to comment on?

6 BY MR. HO:

7 Q I'm not. I'm just -- my understanding  
8 is -- and I just want you to correct me if my  
9 understanding is mistaken -- that the Census  
10 Bureau has looked at the historical undercount of  
11 Hispanics in previous censuses. That's correct,  
12 right?

13 A Yes.

14 Q Okay. And one of the reasons that the  
15 Census Bureau has attributed the undercount of  
16 Hispanics to in previous censuses has been the  
17 failure of Hispanic households to provide a  
18 response for every member of their household,  
19 correct?

20 A Yes.

21 Q Okay. Now, the Census Bureau agrees that  
22 if the citizenship question is included in the



1 census, that would likely cause some households,  
2 such as those including a non-citizen or those  
3 including an undocumented immigrant, to fail to  
4 provide a response for every member of the  
5 household when they respond to the census,  
6 correct?

7 THE WITNESS: Could you read the question  
8 back?

9 (The reporter read the record as  
10 requested.)

11 THE WITNESS: The Census Bureau believes  
12 that the households in your question might be  
13 unlikely to provide a full enumeration whether or  
14 not there's a citizenship question on the census  
15 and does not have evidence of an incremental  
16 effect from the citizenship question.

17 BY MR. HO:

18 Q Well, does the Census Bureau believe that  
19 the citizenship question could have an incremental  
20 effect in certain households failing to enumerate  
21 every member of their household when they respond  
22 to the census?

1           A       I think I just answered that question.

2           Q       Is the evidence that we've seen and  
3       discussed about item non-response, unit  
4       non-response, breakoff rates with a citizenship  
5       question, is that evidence consistent with the  
6       notion that adding a citizenship question to the  
7       census would cause an incremental increase in the  
8       number of households that respond to the census  
9       but don't provide a response for every member of  
10      their household?

11          A       Yes.

12          Q       Now, NRFU efforts are only initiated if a  
13      household fails to provide a response for that  
14      household altogether, correct?

15          A       With a few minor exceptions outlined in  
16      my expert report, correct.

17          Q       So if a household responds to the census,  
18      but omits some of the members of that household,  
19      the Census Bureau doesn't send in-person  
20      enumerators to that person's door because you'd  
21      have no way of knowing if they omitted some  
22      members of their household, correct?

1           A       If the household's response passes the  
2       sufficiency condition for being considered an  
3       essentially complete response, then, yes.

4           Q       What's a sufficiency condition for being  
5       considered a complete response?

6           A       It's a set of conditions that are checked  
7       before the NRFU workload is generated to see  
8       whether the response that came in from the  
9       household is complete enough to essentially fill  
10      in the rest with imputations or not. It varies by  
11      type of enumeration area, but -- and the actual  
12      conditions haven't been set for 2020 yet.

13                   It is my way of saying there are some  
14      cases that go to NRFU where there was an  
15      incomplete response. And I don't have  
16      quantitative evidence on how many of those there  
17      are, but, generally, you're right. Generally, if  
18      you submit a self-response, it doesn't go to NRFU.

19           Q       Generally speaking, if you answer the  
20      questions on the census questionnaire, the 10  
21      questions, or 11, but you don't list every member  
22      of the household, the Census Bureau is not going

1 to send an in-person enumerator to your door,  
2 correct?

3 A Correct.

4 Q Okay. And if you fill out the census  
5 response, answer the 10 or 11 questions, but don't  
6 list every member of your household, the Census  
7 Bureau is not going to try to get a proxy response  
8 for your household, right?

9 A Correct.

10 Q And if you answer the census  
11 questionnaire, but you don't list every member of  
12 your household, the Census Bureau is not going to  
13 start imputing -- sorry -- the Census Bureau is  
14 not going to start using administrative records to  
15 enumerate additional members of your household,  
16 correct?

17 A That actually hasn't been determined, but  
18 it's probably correct.

19 Q Okay. And if you answer the census  
20 questionnaire, but you don't list every member of  
21 your household, the Census Bureau isn't going to  
22 start imputing additional members of your

1 household, correct?

2 A Correct.

3 Q I want to show a document that's been  
4 marked as Exhibit 26.

5 (Abowd Deposition Exhibit Number 26 was  
6 marked for identification.)

7 BY MR. HO:

8 Q This is an official memo published by the  
9 Census Bureau, correct?

10 A It's part of the public memorandum series  
11 following the 2010 census that documents the  
12 coverage measurement studies, yes.

13 Q And this memo, Exhibit 26, it was  
14 produced by the Census Bureau in the ordinary  
15 course of its business, not for the purposes of  
16 litigation, correct?

17 A Correct.

18 Q Okay. And the subject line of this  
19 Census Bureau memo is, "2010 census coverage  
20 measurement estimation report, summary of  
21 estimates of coverage for persons in the United  
22 States," correct?

1 A Correct.

2 Q The lead author or the person that's  
3 prepared by is Thomas Mule, correct?

4 A Mule.

5 Q Mule. Thank you. He is in the decennial  
6 statistical studies division where he's an  
7 economist in the Census Bureau, correct?

8 A He's a mathematical statistician,  
9 otherwise correct.

10 Q Okay. And this memo is cited in the  
11 white paper, Exhibit 24, correct?

12 A Yes.

13 Q Okay. Now, it's fair to say that  
14 Exhibit 26, the Mule memo, that a purpose of it is  
15 to estimate how well the 2010 census covered the  
16 total population of the United States?

17 A Its purpose is to summarize a series of  
18 studies that had that goal, among others.

19 Q And the 2010 census, that included NRFU  
20 efforts for households that did not self-respond  
21 to the census questionnaire, correct?

22 A Yes.

1 Q The 2010 census NRFU efforts included  
2 sending in-person enumerators to households that  
3 didn't self-respond, correct?

4 A Correct.

5 Q And the 2010 census included the use of  
6 proxy enumeration for households that didn't  
7 self-respond, correct?

8 A Correct.

9 Q And the 2010 census also included efforts  
10 to enumerate using administrative records  
11 households that didn't self-respond, correct?

12 A I believe only on a experimental basis.

13 Q But it did include the use of enumeration  
14 via administrative records in the 2010 census,  
15 correct?

16 A I'm actually not sure that's correct. I  
17 believe it was only experimental.

18 Q The 2010 census NRFU efforts included  
19 whole-person imputation for households that did  
20 not self-respond, correct?

21 A Correct.

22 Q Let's turn to page 17 of the Mule memo,

1 table 9, titled, "Components of census coverage by  
2 race and Hispanic origin."

3 The far right column in this table is  
4 labeled, "Omissions," correct?

5 A Yes, although I prefer the term "gross  
6 omissions."

7 Q Okay.

8 A Some of the experts use one and some use  
9 the other. As long as we understand, whenever I  
10 say omissions, it's gross omissions.

11 Q Okay. Omissions in this column, or gross  
12 omissions as you would have it, refers to  
13 percentage of people whom the Census Bureau  
14 estimated were not counted in the 2010 census,  
15 correct?

16 A It refers to the difference between the  
17 dual-system estimator and the number of persons  
18 that the coverage evaluation survey determined the  
19 estimate were correct enumerations.

20 Q Well, one way of characterizing this is  
21 you have that dual estimator calculation of the  
22 total population and you also have the number of



1 people who the Census Bureau believes were  
2 correctly enumerated in the 2010 census through  
3 self-responses or in-person enumerators or proxy  
4 responses, et cetera, and omissions is the  
5 difference between the two, correct?

6 A No.

7 Q All right. Try to explain it to me  
8 again. I'm sorry.

9 A So net undercount is the difference  
10 between the dual-system estimator and the census  
11 count.

12 Q Yes.

13 A Okay? Gross omissions is the difference  
14 between the dual-system estimator and correct  
15 enumerations, which is not the same thing as the  
16 census count. Okay?

17 Q Okay.

18 A Is that what you think you said? Because  
19 that's not what I heard. I'm sorry. I'm not  
20 supposed to ask the questions. I'm sorry.

21 Q I'll ask the questions here. The Census  
22 Bureau estimates that it omitted 5.3 percent of

1 the population in the 2010 census, correct?

2 A Gross omissions, correct.

3 Q Okay. Now, the second to right-hand  
4 column is the percent undercount, which is a  
5 different number, right?

6 A Correct.

7 Q And if we look at percent undercount, the  
8 Census Bureau estimates that the 2010 census  
9 actually overcounted the total population of the  
10 United States by 0.01 percent, correct?

11 A That overcount is not statistically  
12 significant, but that's the correct point  
13 estimate.

14 Q Okay. Now, the omissions are not evenly  
15 distributed across racial and ethnic groups,  
16 correct?

17 A The gross omissions are not, correct.

18 Q And the undercount is not distributed  
19 evenly among racial and ethnic groups, correct?

20 A That's correct. And undercount here is  
21 net undercount.

22 Q So let's start with non-Hispanic whites.

1 The Census Bureau estimates that 3.8 percent of  
2 non-Hispanic whites were omitted in the 2010  
3 census, correct?

4 A You're using non-Hispanic white alone  
5 row, correct?

6 Q And the Census Bureau estimates that  
7 people who are non-Hispanic white alone were  
8 overcounted in the 2010 census by 0.83 percent,  
9 correct?

10 A Correct. And that one is statistically  
11 significant.

12 Q If we look at people who are identified  
13 as black in the census, the Census Bureau  
14 estimates that 9.3 percent of blacks were omitted  
15 in the 2010 census, correct?

16 A Correct.

17 Q And the Census Bureau estimates that  
18 blacks were undercounted in the 2010 census by  
19 2.06 percent, correct?

20 A Correct. And that one is also  
21 statistically significant.

22 Q Let's look at Hispanics. The Census

1 Bureau estimates that 7.7 percent of Hispanics  
2 were omitted in the 2010 census, correct?

3 A That's the last row, and correct.

4 Q And the Census Bureau estimates that  
5 Hispanics were undercounted in the 2010 census by  
6 1.54 percent, correct?

7 A Yes, and it's statistically significant.

8 Q So if we summarize the data that we just  
9 discussed, the racial or ethnic group with the  
10 highest percentage of omissions, blacks, also had  
11 the highest percentage undercount, correct? Just  
12 of the three groups that we discussed.

13 A Oh. Of the three groups we discussed,  
14 that is correct.

15 Q And Hispanics had a higher omission rate  
16 than people who are non-Hispanic white alone and  
17 also had a higher undercount rate as compared to  
18 people who were non-Hispanic white alone, correct?

19 A Correct.

20 Q Overall, there was no net undercount in  
21 2010, but there were undercounts of particular  
22 racial and ethnic subgroups, correct?

1           A       Those are called differential net  
2       undercounts, and that is correct.

3           Q       And while there was overall across the  
4       nation no net undercount, there were also in  
5       certain states and localities net undercounts,  
6       correct?

7           A       We did produce estimates that suggest  
8       that, yes.

9           Q       Okay. I want to go back to the white  
10       paper and I want to ask you questions about  
11       different alternatives for obtaining citizenship  
12       data described in the white paper. Do you  
13       remember alternative C, which is the exclusive  
14       reliance on administrative records, Dr. Abowd?

15          A       Yes.

16          Q       Now, one limitation of alternative C is  
17       that, if you use alternative C, you won't be able  
18       to match every person enumerated in the census to  
19       an administrative record containing citizenship  
20       data, correct?

21          A       Correct.

22          Q       So let's flip to page 49, figure 11,

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1 alternative C. This is Bates COM\_DIS09881. Now,  
2 there are two figures here that present two  
3 different scenarios for alternative C and how many  
4 people for whom the Census Bureau estimates you'd  
5 be able to obtain citizenship data using  
6 administrative records, correct?

7 A Correct.

8 Q Let's look at panel B, which is the  
9 revised assumptions for alternative C. Among the  
10 two scenarios, panel B, with the revised  
11 assumptions, is the worse scenario in terms of the  
12 accuracy of alternative C, correct?

13 A It is worse than panel A.

14 Q Okay. So let's use the worse scenario.  
15 Under the worse scenario, the revised assumptions,  
16 the Census Bureau expects that, under  
17 alternative C, you'd be able to link 289.6 million  
18 people, out of the 330 million people you expect  
19 to enumerate in the census, to administrative  
20 records, correct?

21 A Correct.

22 Q That's about 88 percent of the

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1 population. Sound right?

2 A I didn't do the calculation, but I'll  
3 accept that.

4 Q Thanks. And the Census Bureau expects  
5 under this scenario that, under alternative C, you  
6 would not be able to link about 40.4 million  
7 people to administrative records on citizenship,  
8 correct?

9 A Correct.

10 Q So under this scenario, if you use  
11 alternative C, the Census Bureau would have to  
12 model or impute the citizenship status of about  
13 12 percent of the population to produce the CVAP  
14 data that DOJ has requested, correct?

15 A Correct.

16 Q Now, let's talk about alternative D,  
17 which is to both include a citizenship question on  
18 the census and to rely on administrative records.  
19 Now, the Census Bureau did not recommend  
20 alternative D, correct?

21 A Correct.

22 Q And the Census Bureau still does not

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1 recommend alternative D, correct?

2 A Correct.

3 Q Let's look at page 51, figure 12,  
4 panel B, alternative D. Now, this has -- this  
5 figure has estimates for, if you use  
6 alternative D, how many people you would determine  
7 the citizenship status of using various methods,  
8 correct? At a high level, that's a correct  
9 description, right?

10 A Yes.

11 Q And this uses the same revised  
12 assumptions that we -- that were employed  
13 regarding alternative C that you and I discussed a  
14 moment ago in panel B of figure 11, correct?

15 A That's correct.

16 Q In addition to those revised assumptions,  
17 it also includes an assumption that, when you get  
18 proxy respondents for people who don't respond to  
19 the census, that, generally speaking, those proxy  
20 responses are going to report citizenship status,  
21 correct?

22 A I actually don't recall. Did you --

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1 Q Well, under -- it says --

2 A Oh, yeah, sorry.

3 Q -- here, panel B, alternative --

4 A Yes. Okay.

5 Q -- D.

6 A Yes, that's right. Thank you. Next  
7 time, I'll read the panel titles before I answer.

8 Q My fault. It's probably an unrealistic  
9 rosy assumption, Dr. Abowd, wouldn't you agree,  
10 that proxies in the 2020 census are, as a general  
11 matter, going to report the citizenship status of  
12 their neighbors or for whomever else they're  
13 giving a proxy response?

14 MR. EHRLICH: Objection. Form.

15 THE WITNESS: Yes, it's optimistic.

16 BY MR. HO:

17 Q Okay. So let's take this optimistic  
18 scenario for alternative D. On the right side of  
19 the chart, under alternative D, in this scenario,  
20 there are 20.9 million people for whom you  
21 estimate there will be no census response as to  
22 that person -- those people's citizenship status,

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1 correct?

2 A Correct.

3 Q And if we look at the far left side of  
4 the chart, under alternative D, this optimistic  
5 scenario, there are 260.9 million people who can  
6 be linked to an administrative record and whom you  
7 estimate their response to the citizenship  
8 question is going to be consistent with the  
9 administrative record on citizenship, correct?

10 A Yes.

11 Q And for both these groups that we just  
12 discussed, the 20.9 million people that don't give  
13 a census response as to citizenship, and the 260.9  
14 million people for whom the census response is the  
15 same as the administrative record, adding the  
16 citizenship question doesn't in any way improve  
17 our ability to get citizenship data about these  
18 two groups of people, correct?

19 A Yes.

20 Q So that's a total of 281.8 million  
21 people, out of the 330 million the Census Bureau  
22 expects to enumerate, for whom the addition of the

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1 citizenship question does not improve our ability  
2 to get citizenship data on, correct?

3 A Correct.

4 Q And that's about 85.4 percent of the  
5 population for whom the addition of the  
6 citizenship question makes no improvement in terms  
7 of the availability of citizenship data, correct?

8 A Again, I didn't calculate the proportion,  
9 but that sounds right, yes.

10 Q Okay. Now, the Census Bureau under  
11 alternative D expects that the effect on a  
12 reduction of self-response rates would be the same  
13 as under alternative B, which is just adding the  
14 citizenship question without using administrative  
15 records, correct?

16 A Correct.

17 Q And that means that the Census Bureau  
18 expects that, under alternative D, there are more  
19 people who would end up getting enumerated by  
20 proxy than if you used alternative C, which is  
21 administrative records only, no citizenship  
22 question, correct?

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1 A Correct.

2 Q And so that means that, under  
3 alternative D, as compared to alternative C, the  
4 Census Bureau believes that it's going to be able  
5 to link fewer people to administrative records  
6 because there will be more people enumerated by  
7 proxy and proxies generally have lower quality  
8 data than self-responses, correct?

9 A Yes.

10 Q Now, let's go back to this chart. In  
11 this scenario, there are 39.5 million people under  
12 alternative D who would provide a census response  
13 to citizenship, but who could not be linked to an  
14 administrative record, right?

15 A Yes.

16 Q And you also have a total of 4.9 million  
17 people who have no census response on citizenship  
18 and have no administrative record on citizenship,  
19 correct?

20 A Correct.

21 Q So that means, under the scenario in  
22 alternative B -- D, I'm sorry, if you add those

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1 two numbers together, it's a total of 44.4 million  
2 people who can't be linked to administrative  
3 records, correct?

4 A Correct.

5 Q So that means, if you'll accept my math,  
6 that under alternative D, about 13.5 percent of  
7 the population you won't be able to link to  
8 administrative records, right?

9 A Correct.

10 Q And that's more people that you would not  
11 be able to link to administrative records than if  
12 you used alternative C, just using the  
13 administrative records with no citizenship  
14 question, correct?

15 A Correct.

16 Q Back to the chart, if we look at the left  
17 branch of the chart, but the middle sub-branch,  
18 under alternative D in this optimistic scenario,  
19 you expect that there are about 8.7 million people  
20 for whom the survey response about citizenship and  
21 the administrative data on citizenship will not  
22 agree, correct?

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1 A Yes.

2 Q That means that currently under  
3 alternative D, under this scenario, the Census  
4 Bureau at present estimates that there are  
5 8.7 million people for whom it doesn't know how  
6 it's going to determine their citizenship status  
7 for purposes of assembling DOJ's CVAP data,  
8 correct?

9 A At the moment, that's correct.

10 Q Okay. That problem of not knowing how to  
11 assign citizenship status for millions of people,  
12 that problem does not exist under alternative C,  
13 correct?

14 A Correct.

15 Q Now, the traditional Census Bureau  
16 practice, in general, is that if you have a survey  
17 response that conflicts with an administrative  
18 record, you generally rely on the survey response,  
19 correct?

20 A Correct.

21 Q But here, you would agree that, under  
22 alternative D, if you use the survey response for

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1 these 8.7 million people for whom you estimate the  
2 survey response and the administrative record  
3 conflict, that that would be more inaccurate on  
4 average than just relying on the administrative  
5 record, correct?

6 A We have said there's a disagreement and  
7 that is probably an inaccuracy, correct.

8 Q Conversely, you would expect, under  
9 alternative D, when you have this conflict between  
10 the survey response and the administrative record  
11 for this 8.7 million people, if you were to rely  
12 by default on the administrative record rather  
13 than the survey response, then for that population  
14 of 8.7 million people, there was no reason to ask  
15 them the citizenship question, correct?

16 A Correct.

17 Q Let me ask about a different issue.  
18 Under alternative D, with some of the people for  
19 whom you lack citizenship data through  
20 administrative records, you at least now have a  
21 survey self-response about citizenship, right?

22 A Are you talking about the one that comes

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1 down to 39.5 million?

2 Q Yeah.

3 A Okay. Yes.

4 Q So you would expect that, under  
5 alternative C, some of these 39.5 million people  
6 you actually would have been able to have linked  
7 to administrative records because your survey  
8 responses to the census, if you did include the  
9 citizenship question, would be higher quality,  
10 correct?

11 A Yes.

12 Q Now, some of these 39.5 million people,  
13 you're not going to be able to link to  
14 administrative records under alternative C or  
15 alternative D, correct?

16 A Correct.

17 Q Under alternative C, for the people that  
18 you can't link to administrative records, the plan  
19 is you're going to model or impute the citizenship  
20 status --

21 A Which alternative, I'm sorry?

22 Q Alternative C. Under alternative C, for

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1 that subset of people who are not matchable to  
2 administrative records, the Census Bureau's plan  
3 would be to model or impute the citizenship status  
4 of those people, correct?

5 A Correct.

6 Q Under alternative D, however, if you  
7 can't match someone to the administrative record,  
8 but you have a survey response, there's no  
9 scientifically defensible method for rejecting  
10 that survey response, correct?

11 A Correct.

12 Q So under alternative D, just so we're  
13 clear, you get a survey response on citizenship  
14 and no administrative record; you're stuck using  
15 the survey response, correct?

16 A We would use the survey response.

17 Q So key difference between C and D for  
18 these people who are not matchable to  
19 administrative records and don't give you a survey  
20 response under D, under C, you impute their  
21 citizenship status; under D, you use the survey  
22 response, correct?

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1 A Yes.

2 Q There is no reason to think, Dr. Abowd,  
3 that for this group of unmatchable people, that on  
4 average the survey response about citizenship is  
5 going to be more accurate than the imputation  
6 method that you would use under alternative C,  
7 correct?

8 A Correct.

9 Q Dr. Abowd, if someone argued that  
10 alternative D was justified because alternative C  
11 requires the imputation of citizenship status of  
12 people who lack administrative records, would the  
13 Census Bureau agree with or disagree with that  
14 argument?

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15 MR. EHRLICH: Objection. Form.

Calls for  
speculation

16 THE WITNESS: Disagree.

17 BY MR. HO:

18 Q Has the Census Bureau communicated to the  
19 Commerce Department that it disagrees with the  
20 notion that alternative D is justified because  
21 alternative C requires the imputation of  
22 citizenship status for some people?

1           A       Is the question have we communicated  
2 consistently our preference for C as opposed to D?

3           Q       It's a more specific question than  
4 that --

5           A       Okay.

6           Q       -- Dr. Abowd. Has the Census Bureau  
7 specifically communicated its rejection of the  
8 argument that alternative D is better than  
9 alternative C because alternative C requires  
10 imputation of citizenship status of people for  
11 whom there is no linked administrative record?

12          A       So I'm not sure how to answer that  
13 question because I don't know that the advice ever  
14 took that specific form. We have consistently  
15 communicated that the modeled response was better  
16 than the survey responses in the unlinked data.

17          Q       Okay. So the modeled responses under  
18 alternative C for the group of people who can't be  
19 matched to citizenship records, in the Census  
20 Bureau's view, that's more accurate than the  
21 self-responses about citizenship that you would  
22 get from adding the citizenship question to the

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1 survey?

2 A Yes.

3 Q Okay. Have you heard Commerce Department  
4 officials opine that alternative D is better than  
5 alternative C because alternative C requires the  
6 imputation of citizenship status of people who  
7 can't be linked to administrative records?

8 A Yes.

9 Q Have you heard Earl Comstock offer that  
10 opinion?

11 A Yes.

12 Q Do you disagree with that opinion? Does  
13 the Census Bureau disagree with that opinion?

14 A Yes.

15 Q Has the Census Bureau communicated its  
16 disagreement of that opinion to Mr. Comstock?

17 A Yes.

18 Q If Mr. Comstock said that the Census  
19 Bureau never communicated its disagreement with  
20 that opinion, would Mr. Comstock be wrong?

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Calls for  
speculation

21 MR. EHRLICH: Objection. Form.

22 THE WITNESS: As far as I know, yes.

1 MR. HO: Can we go off the record?

2 THE VIDEOGRAPHER: Going off the record  
3 at 10:26.

4 (Whereupon, a short recess was taken.)

5 THE VIDEOGRAPHER: Back on the record at  
6 10:44.

7 BY MR. HO:

8 Q Dr. Abowd, you testified that you  
9 communicated the Census Bureau's disagreement with  
10 the notion that alternative D is justified because  
11 alternative C requires imputation of citizenship  
12 status -- that you communicated that disagreement  
13 to Earl Comstock. When did you communicate that  
14 disagreement to Mr. Comstock?

15 MR. EHRLICH: Objection. Form.

16 THE WITNESS: I testified that the Census  
17 Bureau communicated that disagreement. And that  
18 occurred between the time that we briefed the  
19 Secretary -- and, I'm sorry, I don't remember the  
20 date in February, but I'm sure it's in the  
21 record -- and the time he made his final  
22 determinations. Most of that briefing occurred

1 because Acting Director Jarmin and Acting Deputy  
2 Director Lamas and Special Assistant to the  
3 Director Christa Jones were in daily contact with  
4 the Under Secretary and with the Secretary's  
5 staff.

6 And we were in the process of developing  
7 the numbers that you've asked me about that appear  
8 in the technical paper in support of the  
9 discussion about the difference between  
10 alternative C and alternative D. I didn't  
11 personally communicate.

12 BY MR. HO:

13 Q But to be clear, the Census Bureau  
14 communicated its disagreement with alternative D  
15 before the Secretary issued his decision  
16 memorandum to include the citizenship question in  
17 late March 2018, correct?

18 A Yes.

19 Q I want to ask you one question --  
20 follow-up question about a line in the white  
21 paper, page 41, last paragraph, the sentence about  
22 a third of the way down that begins with,

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1 "Households deciding."

2 A Page?

3 Q 41, last paragraph.

4 A Yes.

5 Q "Households deciding not to self-respond  
6 because of the citizenship question are likely to  
7 refuse to cooperate with enumerators coming to  
8 their door in NRFU, resulting in the use of  
9 neighbors as proxy respondents on their behalf."

10 I believe you testified that the Census  
11 Bureau agrees with part of that statement. What's  
12 the part that the Census Bureau disagrees with?

13 A So the Census Bureau would say that  
14 qualitative evidence suggests that this sentence  
15 is correct, and the problem is that the  
16 qualitative evidence is difficult to generalize,  
17 but we wouldn't ignore it. And so we would say  
18 the best evidence we have suggests that this  
19 sentence is correct, but it's not as strong as the  
20 evidence that we have when we're able to do both  
21 qualitative and quantitative analyses.

22 (Abowd Deposition Exhibit Number 27 was

1 marked for identification.)

2 BY MR. HO:

3 Q I want to ask you about a document,  
4 Exhibit -- that has been marked as Exhibit 27, the  
5 title of which is, Proposed content test on  
6 citizenship question. This document sets forth a  
7 proposal for two different RCTs for the  
8 citizenship question on the census, correct?

9 A It's one RCT with two different  
10 precisions of estimation.

11 Q And the RCT, as proposed here, would have  
12 taken six weeks to collect the data, correct?

13 A Correct.

14 Q And the proposal was to initiate the RCT  
15 in either November of 2018 or February of 2019,  
16 correct?

17 A Correct.

18 Q In either case, the RCT could have been  
19 completed before census forms are due to be  
20 printed, correct?

21 A Correct.

22 Q The cost of this proposal, there are two

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1 variations on it, but it ranges from 2 million for  
2 one option to 4.1 million for the other option,  
3 correct?

4 A Correct.

5 Q Does the Census Bureau have the money to  
6 conduct either option?

7 A Yes.

8 Q This proposal was rejected by a group of  
9 decision-makers, including Dr. Lamas, Dr. Jarmin  
10 and Under Secretary Karen Dunn Kelley, correct?

11 A That is what I testified, yes.

12 Q Is it your understanding that the  
13 proposal was rejected by a different  
14 decision-maker than those three people?

15 A I wasn't in the conversation. I'm  
16 reporting it based on a summary given to me by  
17 Dr. Jarmin and Lamas.

18 Q Is it the Census Bureau's understanding  
19 that these three individuals jointly made the  
20 decision to reject the RCT proposal?

21 A Yes.

22 Q What is the Census Bureau's understanding

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1 of why this RCT proposal was rejected?

2 A I have, subsequent to my first 30(b)(6)  
3 testimony, learned that the motivation for this  
4 RCT was a congressional question asking us why, in  
5 the proposed census question, we used the form  
6 where, yes, born in the United States and, yes,  
7 born in Puerto Rico, Guam, the U.S. Virgin Islands  
8 or Northern Marianas were separate choices.

9 And primarily Enrique Lamas said that  
10 that's the form that's on the ACS, that's the form  
11 that's been tested, that's the only tested form we  
12 have, and at that point asked if we could do a  
13 content test to establish that some other tested  
14 form might also be usable.

15 And then -- I actually am not certain  
16 exactly how the decision not to make it was done.  
17 I think it's one of those decisions where time  
18 passed and no instruction was given to do it, and  
19 so it was not done.

20 But there was consultation. I wasn't in  
21 the consulting room so I don't want to  
22 characterize conversations that I never heard. We

1 actively decided not to do this, but I'm not  
2 exactly sure that someone said, don't do it, that  
3 explicitly.

4 Q Does the Census Bureau not know why the  
5 decision was made to reject the RCT proposal?

6 A The reason the decision was rejected was  
7 because the senior leadership, Jarmin and Lamas,  
8 decided that we wouldn't learn enough from this  
9 RCT to justify a content change in the specific  
10 citizenship question.

11 Q Why, in the Census Bureau's view, would  
12 you not learn enough from the RCT to shed light on  
13 the question of whether the citizenship question  
14 should be included or what form it should take?

15 A So the right way to think about that is  
16 against what opportunity cost. And the  
17 \$4.4 million is not the opportunity cost that  
18 mattered. The opportunity cost that mattered is  
19 what the staff in decennial and the American  
20 Community Survey would have otherwise been doing  
21 while they were diverted to conducting this RCT.  
22 Our cost estimates do not include measures of

1 headquarters staff time devoted to the experiment.

2 So an active resource allocation decision  
3 was made that that staff time would be better  
4 spent doing the activities that it would be able  
5 to do if we didn't do this experiment.

6 Q If you had conducted the RCT, you would  
7 have had quantitative data on how the citizenship  
8 question would perform in the context of the  
9 decennial enumeration questionnaire in terms of  
10 response rates, correct?

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11 MR. EHRLICH: Objection. Form.

Vague; Calls  
for  
speculation

12 THE WITNESS: Yes.

13 BY MR. HO:

14 Q And if the RCT like this had been  
15 performed, you would have had quantitative data on  
16 how well NRFU efforts could have addressed a  
17 decline in self-response resulting from the  
18 addition of the citizenship question in the census  
19 enumeration questionnaire, correct?

20 MR. EHRLICH: Objection. Form.

21 THE WITNESS: No.

22 BY MR. HO:

1           Q       You mentioned differences between NRFU  
2       efforts in 2020 versus NRFU efforts in 2010.  
3       Could you elaborate on what those differences are  
4       anticipated to be?

5           A       The major differences in the NRFU from  
6       2020 as compared to 2010 are the extensive use of  
7       administrative records at both the determination  
8       of occupied, vacant, delete, and potentially for  
9       enumeration after the first non-response  
10      follow-up.

11          Q       Any other differences in the NRFU efforts  
12      planned for 2020 versus 2010 other than the use of  
13      administrative records for enumeration purposes?

14          A       The field operations are controlled by a  
15      field operational control system that contains a  
16      very extensive route optimizer that we tested all  
17      decade.

18                   (Discussion held off the record.)

19      BY MR. HO:

20          Q       Backing up for a moment, Dr. Abowd, does  
21      the Census Bureau believe that it is reasonable to  
22      be spending the increased amounts of money that it

1 will be forced to spend, and staff time, due to  
2 the citizenship question being included on the  
3 decennial questionnaire given the utility of the  
4 data that will be on it?

5 A The Census Bureau has been instructed to  
6 include a citizenship question on the 2020 census  
7 and has attempted to quantify the consequences of  
8 that for the operations of the 2020 census. That  
9 quantification suggests increases in the  
10 non-response follow-up costs and a deterioration  
11 in the quality of the response data. And we are  
12 prepared to conduct the census with those extra  
13 resources in NRFU and taking account of the change  
14 in the quality of the data.

15 Q Dr. Abowd, you testified that one of the  
16 reasons why the Census Bureau rejected the RCT  
17 proposal is that it didn't make sense from a  
18 cost-benefit perspective, correct, in the view of  
19 the Census Bureau?

20 A Correct.

21 Q In the view of the Census Bureau, does it  
22 make sense from a cost-benefit perspective to add

1 the citizenship question to the census?

2 A It has been our consistent recommendation  
3 not to do so.

4 Q Would the Census Bureau welcome a  
5 decision from a court of law relieving the Census  
6 Bureau of the obligation to include a citizenship  
7 question on the 2020 census enumeration  
8 questionnaire?

9 MR. EHRLICH: Objection. Form.

10 THE WITNESS: The Census Bureau is  
11 prepared to conduct the 2020 census with or  
12 without the citizenship question as instructed by  
13 the Secretary, Congress or the courts, depending  
14 upon the final determination.

15 BY MR. HO:

16 Q Given the Census Bureau's views about the  
17 cost benefits -- the costs and benefits of  
18 including the citizenship question, would it be  
19 desirable, from the Census Bureau's perspective,  
20 from a cost-benefit perspective, if a court issued  
21 a ruling stating that the Census Bureau no longer  
22 had to include a citizenship question on the

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1 census?

2 MR. EHRLICH: Objection. Form.

3 THE WITNESS: The Census Bureau is  
4 prepared to conduct the 2020 census with or  
5 without a citizenship question, as instructed by  
6 the Secretary and subsequently determined by  
7 either Congress or the courts.

8 BY MR. HO:

9 Q If the Census Bureau received an  
10 instruction in May of 2019 not to include a  
11 citizenship question on the census, would the  
12 Census Bureau be able to follow that instruction?

13 A Yes.

14 Q If the Census Bureau received an  
15 instruction in September of 2019 not to include a  
16 citizenship question on the census, would the  
17 Census Bureau be able to follow that instruction?

18 A Yes.

19 Q If the Census Bureau received an  
20 instruction in December of 2019, would the Census  
21 Bureau -- not to include the citizenship question  
22 on the census, would the Census Bureau be able to



1 include -- be able to follow that instruction?

2 A Yes.

3 Q Is there a drop-dead date by which the  
4 Census Bureau cannot receive -- cannot implement a  
5 decision or an instruction not to include the  
6 citizenship question on the census?

7 A My yeses presumed that the resources  
8 associated with making the change accompanied the  
9 decision. Without the resources, we can't make  
10 any change.

11 Q Regardless of resource questions, is  
12 there a drop-dead date by which the Census Bureau  
13 simply cannot remove the citizenship question to  
14 the 2020 census?

15 A I don't know the answer to that question.

16 Q The Census Bureau doesn't know the answer  
17 to that question?

18 A Yes. The Census Bureau does not know the  
19 answer to that question.

20 MR. HO: Can we go off the record?

21 THE VIDEOGRAPHER: Going off the record  
22 at 10:58.

1 (Whereupon, a short recess was taken.)

2 (Abowd Deposition Exhibit Numbers 28 and  
3 29 were marked for identification.)

4 THE VIDEOGRAPHER: Back on the record at  
5 11:24.

6 EXAMINATION BY COUNSEL FOR

7 THE STATE OF NEW YORK

8 BY MS. FIDLER:

9 Q Good morning, Dr. Abowd. I'm Danielle  
10 Fidler with the New York attorney general's office  
11 representing the State of New York in this matter.

12 A Hi.

13 Q We just wanted to -- we had asked you,  
14 before we took a break, about trying to get a  
15 sense -- because a court will certainly need to  
16 know the answer -- of how long it has to decide  
17 this matter. And so does the Census Bureau --  
18 given existing resources, what's the drop-dead  
19 date by which the Census Bureau could guarantee  
20 implementation of the 2020 census without a  
21 citizenship question?

22 A So I did check. I actually asked the

1 acting director to give me an answer that is the  
2 agency's answer. With existing resources,  
3 June 30th of 2019 is the content lock-down date.  
4 With exceptional effort and additional resources,  
5 October 31st, 2019 is the final date. Any date  
6 after that would require major redesigns in the  
7 2020 census, and some might require congressional  
8 authorization to change the census date.

9 Q I'd like to turn to what has been marked  
10 in advance as Exhibit 28. You have it before you.  
11 It's the 2020 census -- census barrier attitudes  
12 and motivators survey, CBAMS, high-level findings,  
13 dated August 29th, 2018. Are you familiar with  
14 this document?

15 A I have seen this document before. I  
16 haven't reviewed it.

17 Q Can you please describe what the census  
18 barriers, attitudes and motivators surveys are?

19 A We expand that acronym differently in  
20 some places. So there's the census barrier,  
21 attitudes and motivators studies. One component  
22 was survey and one component was focus group.

1           So the survey component was a probability  
2   sample of 50,000 households, of which 17,000  
3   responded. And the focus group component was a  
4   series of 42 focus groups that were conducted.  
5   And they have both been entitled CBAMS. So --  
6   this is about the survey.

7           Q     Okay. How is the information from the  
8   CBAMS used by the Census Bureau?

9           A     The primary reason for conducting the  
10   CBAMS is to inform the communication -- integrated  
11   partnership and communication program in the  
12   development of the partnership materials and the  
13   communication materials. It is a part -- CBAMS,  
14   both the survey and the focus groups, are a part  
15   of the integrated communication contract. And  
16   Young & Rubicam is the prime contractor on that.

17           Q     And that plan actually does form a  
18   significant part of the Bureau's NRFU plan,  
19   correct?

20                   MR. EHRLICH: Objection. Form.

21                   THE WITNESS: So the integrated  
22   partnership and communications program runs

1 throughout the entire census and is designed to  
2 maximize self-response.

3 BY MS. FIDLER:

4 Q Which is critical for conducting an  
5 accurate census, correct?

6 A Self-responses are the best responses.

7 Q Does the bureau find the data from the  
8 CBAMS to be generalizable? We were talking  
9 about -- I mean, this is qualitative data, for the  
10 most part, with the exception of the survey, but  
11 the focus groups are kind of a qualitative  
12 assessment, correct?

13 MR. EHRLICH: Objection. Form.

14 THE WITNESS: Would you mind taking that  
15 apart into a few questions.

16 BY MS. FIDLER:

17 Q Sure. You mentioned that this  
18 particular -- the document we're talking about and  
19 the effort with the CBAMS had a survey component  
20 and a focus group component, correct?

21 A Correct.

22 Q Would you consider the survey component

1 to be quantitative data?

2 A Yes.

3 Q And would you consider the focus group  
4 responses to be qualitative data?

5 A Yes.

6 Q And does the bureau find the findings  
7 from the CBAM, both -- well, we'll start with the  
8 quantitative data -- to be generalizable in its  
9 conclusions about the questions that it's seeking  
10 to answer?

11 A We found, in advance of the 2010 census,  
12 that the much more limited CBAMS survey that we  
13 ran at that time provided actionable information  
14 that informed and improved the communication and  
15 partnership campaign during that census. And  
16 that's what we expect from the survey and the  
17 focus group components this time.

18 Q Okay. And I'd like to have you take a  
19 look at what's been marked as Exhibit 29. This  
20 is -- it starts with administrative record 13025  
21 at the bottom. And the first page says, 2020  
22 CBAMS focus groups - audience summary report.

1 Have you seen this document before?

2 A Yes.

3 Q Okay. Is it -- these are summary reports  
4 of the focus groups; is that correct?

5 A That's correct.

6 Q And is this -- is information from these  
7 focus groups summarized in Exhibit 28, the  
8 PowerPoint?

9 A I'm going to have to look. I didn't  
10 think so, but I might be wrong.

11 Yes, it is.

12 Q Okay.

13 A So the cover of this presentation should  
14 say survey and focus groups.

15 Q Thank you. I'd like to turn to -- let's  
16 see. There's a slide -- it's slide 5. The Bates  
17 number is COM\_DIS00010674. And the title is,  
18 "Distrust in census and government may complicate  
19 outreach to some communities."

20 Have you found that page?

21 A Yes.

22 Q Okay. Just as a background question, are

1 there any revised or more recent versions of this  
2 PowerPoint that you know of?

3 A Not that I'm aware of.

4 Q Okay. The last bullet states that a  
5 number of focus group participants -- or the  
6 second to the last bullet -- "A number of focus  
7 group participants responded negatively to adding  
8 the citizenship question, most notably Spanish  
9 (U.S. mainland) as well as Vietnamese, Chinese,  
10 NHPI, and members of the female MENA group."

11 What does that mean?

12 A So the way that we draw conclusions from  
13 focus groups is that we follow a similar protocol  
14 in stimulating conversation in each focus group,  
15 take the transcripts from those focus groups and  
16 double-code the responses, and then look for  
17 common answers across the focus groups, and then  
18 see what was the target recruitment group for that  
19 set of focus groups that had common responses.  
20 And that's what's being characterized here.

21 So that people recruited in the focus  
22 groups who mentioned citizenship as a barrier came



1 from focus groups that were recruited to have  
2 Chinese, Vietnamese, Spanish, Native Hawaiian and  
3 Pacific Islander, and MENA, Middle Eastern and  
4 North Africa.

5 Q And why was this bullet included in the  
6 PowerPoint?

7 A I believe to draw the attention of people  
8 who are using this to -- that finding of the focus  
9 groups.

10 Q And what significance, if any, does the  
11 Census Bureau accord to these focus groups with  
12 respect to self-response rates on the 2020 census?

13 A I think I've been asked this before, so  
14 I'm trying to give a consistent answer. The  
15 quantitative evidence from the survey comes from  
16 probability samples. And the recruitment targets  
17 in the focus groups are from groups that we have  
18 trouble getting responses to the probability  
19 samples. So they're complementary in that sense.  
20 We learn from the focus groups because we  
21 try to be successful in recruiting into the focus  
22 groups people who are hard to count, and in fact,

1 you actually had to score high on a hard-to-count  
2 index in order to be recruited into these focus  
3 groups. That basically means that they're the  
4 groups that are most difficult to get responses in  
5 the survey, not necessarily for the same reasons,  
6 but as a general category.

7 And so we view this as being able to  
8 interview the people that either didn't respond or  
9 were very reluctant to respond to a survey  
10 component and attempt to discover what it is about  
11 the process or about any other aspect of the data  
12 collection activity that makes them reluctant to  
13 respond.

14 And then we try to design a partnership  
15 and communication campaign that addresses those  
16 issues, run additional tests, qualitative tests,  
17 to see if the messaging is successful in  
18 overcoming the barriers.

19 Q Thank you. Were you aware that this  
20 document was saved electronically under the file  
21 name 2020 CBAMS preliminary findings deck for  
22 Under Secretary 8/29/18?

1 A No.

2 Q Was this PowerPoint presented to the  
3 Under Secretary for Commerce?

4 A To the --

5 Q Was this PowerPoint presented to the  
6 Under Secretary, Ms. Dunn Kelley?

7 A I believe so, yes.

8 Q Okay. Anyone else that you know of?

9 A I don't have personal knowledge other  
10 than the -- it was presented to the Secretary as  
11 well.

12 Q Okay. And do you know when it was  
13 presented to them?

14 A I don't.

15 Q Roughly?

16 A Sorry?

17 Q Roughly, even?

18 A Within the last month.

19 Q Okay. And what was the context for  
20 presenting it to them?

21 A The Secretary -- the presentation that I  
22 know about is the regular meeting that the

401;  
403

1 Secretary conducts to get a progress report on the  
2 2020 census, which is distinct from the regular  
3 meeting that the Under Secretary conducts to keep  
4 current on the operations.

5 I do not know the frequency of the  
6 meeting the Secretary conducts. The Under  
7 Secretary conducts one -- that meeting once a  
8 week.

9 During the Secretary's briefing, there  
10 was a presentation by the integrated communication  
11 contract team, Y&R, that covered the information  
12 in this presentation.

13 Q Okay. So just Y&R did the presentation?  
14 Did anyone else from the Census Bureau  
15 participate?

16 A The chief of the decennial communications  
17 office also presented. That's Burton Reist,  
18 R-E-I-S-T.

19 Q Did the Under Secretary or the Secretary  
20 have a response to the bullets about the negative  
21 focus group response on the citizenship question?

22 A They were discussed, yes.

1 Q And is there -- was there a response that  
2 was noted?

3 A I think that that's a more appropriate  
4 question for the regular attendees of this  
5 meeting. There was a discussion. I was in the  
6 room. I did hear the discussion. I don't know  
7 what constitutes a response in that context  
8 because I -- that's the only one I've ever been in  
9 and I wasn't there as a part of this discussion.

10 So I know it was presented to him. And  
11 if you would like me to clarify, I will clarify.

12 The Secretary was looking for indications  
13 from the team that they were responding in the  
14 development of the communication and partnership  
15 campaign -- there was -- there were people from  
16 the partnership campaign there, too -- responsive  
17 to this information. And the questions indicated  
18 that he thought that we should be responsive to  
19 this information. And the partnership and  
20 communication people both communicated that they  
21 intended to be responsive to it.

22 But this was the first presentation of

1 what we learned, and now the intensive effort to  
2 design both the partnership materials and the  
3 communication campaign was going to kick off and  
4 would be informed by this.

5 Q And since you were in the room, was there  
6 concern expressed about this particular -- the  
7 response to the citizenship question to these  
8 groups? Was that highlighted -- did the Secretary  
9 or Under Secretary have a concern about this?

10 A I'm very reluctant to characterize either  
11 the Under Secretary or the Secretary's actions as  
12 a concern or not a concern. Attention was paid.  
13 It was acknowledged to be a challenge in  
14 conducting the census. And much more of the  
15 attention was focused on how this information  
16 would be used to inform the partnership and  
17 communication campaign.

18 Q Okay. What, if anything, was discussed  
19 with respect to the negative focus group response  
20 to the citizenship question? Like, any -- was  
21 there anything in particular beyond what you've  
22 discussed right now?

401;  
403

1 A Time was spent on that slide --

2 Q Okay.

3 A -- and attention was drawn to that fact  
4 and it was discussed.

5 Q Okay. Turning to Exhibit 28, which is  
6 the summary -- I'm sorry, Exhibit 29, my  
7 apologies -- the summary of the CBAM focus groups.  
8 Could you please go to what's -- and that starts  
9 with the -- 13025. If you could please go to  
10 13045. This is titled at the top the 2020 CBAMS  
11 focus groups - audience summary report for  
12 Spanish, U.S. mainland. Do you see that?

13 A Yes.

14 Q Okay. And if you go to the next page,  
15 which is 13046, this is the summary of emerging  
16 themes from that focus group, correct?

17 A Okay.

18 Q And this is prepared by the team after  
19 having watched the focus group, correct?

20 A And processed the transcripts.

21 Q Okay. If you go down to the third  
22 emboldened sentence, it says, "The citizenship

1 question is a determining factor for  
2 participation." Then it says, "All four Spanish,  
3 U.S. mainland, focus groups took place after the  
4 March 27, 2018 announcement that the 2020 census  
5 will include a question on citizenship.  
6 Participants in all locations mentioned the  
7 citizenship question before the moderator asked  
8 about, except for Houston Group 1 participants.  
9 Most participants said that though they personally  
10 are citizens or legal residents and are not afraid  
11 to answer the citizenship question, they know many  
12 others who will not fill out the question or the  
13 form altogether out of fear. While all  
14 participants expressed the desire to be counted,  
15 fear of deportation outweighs any benefits."

16 Isn't this a strong indication that the  
17 citizenship question will drive down participation  
18 significantly among this community?

Vague;  
Mischaracterizes  
the document

19 MR. EHRLICH: Objection. Form.

20 THE WITNESS: This is a focus group  
21 indication from a hard-to-count population that  
22 the citizenship question is viewed as extremely



1 problematic in that population.

2 BY MS. FIDLER:

3 Q And aren't people afraid of deportation  
4 the least likely to participate at all in the  
5 census or to be swayed by NRFU efforts?

6 A I'm not prepared to say the least likely  
7 to participate at all. I'm prepared to  
8 acknowledge that they're an extremely difficult  
9 group to count.

10 Q Isn't it reasonable to conclude that if  
11 there's a fear of deportation, that NRFU efforts  
12 are unlikely to be successful?

13 MR. EHRLICH: Objection. Form.

14 THE WITNESS: No.

15 BY MS. FIDLER:

16 Q And why not?

17 A We define NRFU success as our ability to  
18 characterize a housing address as vacant, occupied  
19 or non-existent, and to process the information  
20 about the occupants when we deem it occupied.

21 Q In light of the concerns raised by this  
22 community, doesn't this indicate that if there's a

1 citizenship question on the census, trusted  
2 partners will have additional challenges in  
3 convincing this community to participate?

4 A Yes.

5 Q Wasn't it also indicated from this focus  
6 group that this community does care about  
7 participation in the census?

8 A Yes.

9 Q That they would like to participate in  
10 the census, in fact?

11 A That's a reasonable conclusion.

12 Q They expressed that they understand the  
13 benefits to their community of participating in  
14 the census; isn't that correct?

15 A Yes.

16 Q And so it indicates that the community  
17 would participate -- would be more likely to  
18 participate in the census if there was not a  
19 citizenship question, correct?

20 A Should I interpret "participate" to mean  
21 self-respond?

22 Q Yes, self-response.

1           A       Yes.

2           Q       It mentions that, in this focus group, on  
3       the fear of -- the paragraph above the one we read  
4       states, in the middle of that paragraph,  
5       "Additionally, while there were suggestions of  
6       trusted voices, there does not seem to be a single  
7       trusted voice that could mitigate their distrust  
8       of the government to uphold the promise of  
9       confidentiality."

10                So doesn't that indicate that trusted  
11       partners will have a difficult time convincing  
12       this community to participate in the census with a  
13       citizenship question?

14           A       Again, if participate means  
15       self-response --

16           Q       Self-response.)

17           A       -- yes.

18           Q       Just generally speaking, this information  
19       is noted in all of these -- all of the summaries,  
20       that -- by way of background, that the information  
21       will be used to inform the 2020 census  
22       communications campaign.   Has that already -- has

1 this information already been incorporated into  
2 the integrated communication plan?

3 A The -- team Y&R, in collaboration with  
4 its census staff, with census staff who are  
5 working with them, were taking this information  
6 immediately into the design of the media and  
7 partnership materials which are -- they're in  
8 content design phase now.

9 Q Okay. So then is there anything we could  
10 look to currently that would reflect this -- the  
11 influence of this information?

12 A Do you mean have they produced any  
13 materials?

14 Q Correct.

15 A None that I'm aware of.

16 Q Okay. On page 13031, in the fourth major  
17 heading, the last sentence --

18 A Community benefits?

19 Q Community benefits. The last sentence of  
20 that paragraph says, "In addition, since many  
21 participants had varying grasps about census  
22 outcomes, the more they understood how the census

1 drove resources and services to any given  
2 community, the greater they felt compelled to  
3 participate."

4 This is an indication that the moderators  
5 indicate that local counts, local census counts,  
6 are critical to ensuring representative levels of  
7 funding for particular communities, and they  
8 convey this information to the participants,  
9 correct?

10 A Yes.

11 Q And part of the reason the Census Bureau  
12 is trying to inform people of this connection  
13 between the census and the funding is because in  
14 order to ensure adequate funding, communities need  
15 accurate enumeration, correct?

16 MR. EHRLICH: Objection. Form.

17 THE WITNESS: Correct.

18 BY MS. FIDLER:

19 Q And many of the respondents in the CBAM  
20 summaries indicate they already know about this  
21 connection, correct?

22 A Your characterization. I haven't read

1 through all the data, but I won't dispute it.

2 Q Okay. The Census Bureau acknowledges,  
3 and you mentioned earlier, that there are local  
4 undercounts for many hard-to-reach populations  
5 that can exist and have sometimes persisted for  
6 some time, for example, with the Hispanic  
7 community, correct?

8 MR. EHRLICH: Objection. Form.

9 THE WITNESS: So I don't think I said  
10 that. I said that we had documented differential  
11 net undercounts at the national level.

12 BY MS. FIDLER:

13 Q And those -- at the national level and  
14 there can -- and there are -- there's data to show  
15 that there have been persistent undercounts of the  
16 Latin -- of the Hispanic community in particular,  
17 correct?

Vague;  
Compound;  
Confusing

18 MR. EHRLICH: Objection. Form.

19 THE WITNESS: At the national level,  
20 correct.

21 BY MS. FIDLER:

22 Q With regard to local population, if there

1 are undercounts, funding for things like schools  
2 and Medicare that rely on census population  
3 numbers can be decreased, correct?

Vague;  
Compound;  
Confusing

4 MR. EHRLICH: Objection. Form.

5 THE WITNESS: The relation between  
6 population measures for local communities and  
7 funding is sometimes direct and sometimes  
8 indirect. In most cases, having a larger  
9 population implies a larger share of the total  
10 resource being allocated.

11 BY MS. FIDLER:

12 Q Many respondents throughout the study  
13 indicated an understanding that information is  
14 required to be kept confidential, but also  
15 indicated a fear that this could change and be  
16 used against them in the future. Are you familiar  
17 with that?

18 A Yes.

19 Q Is that a concern of the Census Bureau?

20 A The Census Bureau is not concerned about  
21 the current confidentiality protections embodied  
22 in title 13. Like any law, a law can be modified,

1 amended. Statistical agencies in general, and the  
2 Census Bureau among them, would be extremely  
3 concerned if the respondent confidentiality  
4 clauses were removed from title 13.

5 Q For those who have this fear about the  
6 potential for change, aren't those who have this  
7 belief less likely to self-respond to the census  
8 or to respond to an enumerator?

Vague;  
Compound; Calls  
for Speculation

9 MR. EHRLICH: Objection. Form.

10 THE WITNESS: I'm willing to summarize  
11 both the quantitative and the qualitative evidence  
12 suggesting that the groups that you have isolated  
13 in your question are less likely to self-respond.

14 BY MS. FIDLER:

15 Q On page 13040 in this summary, one of the  
16 emerging themes identified -- and this is a native  
17 Hawaiian and Pacific Islander, but it comes up  
18 elsewhere as well -- is multigenerational housing  
19 as a potential barrier. "Participants expressed  
20 concerns about sharing information about the  
21 number of people who live in their households. It  
22 is a common practice on the islands to live with



1 extended family or to have more people living in  
2 their house than are listed on the lease or  
3 official documents. These concerns present a  
4 potential barrier for the NHPI audience, as some  
5 participants were worried about landlords finding  
6 out the number of people living in their  
7 residence."

8 This is another area where you could  
9 potentially have either a complete non-response,  
10 non-self-response or, as was described earlier,  
11 you could have a census response that did not  
12 include all of the members of the household,  
13 correct?

14 A Yes.

15 Q And when this occurs, the members that  
16 are not identified are the ones least likely to be  
17 found via imputation or other methods, correct?  
18 They're the most likely to be omitted as part of a  
19 gross omission.

20 A Could you unpack that question, please?

21 Q Sure. For the -- for the households that  
22 have multigenerational housing, as described here,

1 who do not want to disclose all of the members of  
2 their household, to the extent that they do not do  
3 so, that is where you are likely to have  
4 omissions, correct?

5 A That is where nothing in the current  
6 census protocol would correct that particular  
7 omission.

8 Q And these types of omissions can lead to  
9 localized or -- undercounts, correct?

Vague;  
Confusing

10 MR. EHRLICH: Objection. Form.

11 THE WITNESS: So net undercount is the  
12 difference between omissions and erroneous  
13 enumerations and whole-person census imputations.  
14 And these kinds of errors can affect both sides of  
15 that equation.

16 BY MS. FIDLER:

17 Q For those who have these  
18 multigenerational households, they're the -- it's  
19 unlikely that their landlord would be able to  
20 provide information about them, correct, because  
21 they wouldn't know?

22 MR. EHRLICH: Objection. Form.

1 BY MS. FIDLER:

2 Q Let me back up. This is a focus group  
3 that's describing that they do not want to provide  
4 information because it is their understanding that  
5 their landlords do not know that these numbers are  
6 living in their household, correct?

7 A Understood, yes.

8 Q And in those cases when the census is  
9 relying on proxy information, in part -- one of  
10 the sources for proxy information are landlords,  
11 correct, and landlord records, correct?

12 A Yes.

13 Q But in those cases where the landlords do  
14 not know about the multigenerational housing, that  
15 information would not be there, correct?

16 A That's a reasonable presumption, yes.

17 Q And so for subpopulations where  
18 multigenerational housing is common, this could  
19 present a problem for an accurate count of that  
20 subpopulation, correct?

Calls for  
speculation

21 A Yes.

22 MR. EHRLICH: Objection. Form.

1 THE WITNESS: Yes.

2 BY MS. FIDLER:

3 Q This is also an area where reliance on  
4 trusted partners is actually quite helpful for the  
5 Census Bureau, correct?

6 A I'm sorry. I was asking Mr. Ehrlich a  
7 question.

8 Q The -- the types of housing where there's  
9 multigenerational housing or people living in  
10 basements is an area where trusted partners are  
11 actually critical to helping the census get  
12 accurate information, correct?

13 A They're very important, yes.

14 Q And as we've discussed, trusted partners  
15 may have a difficult time convincing these  
16 communities to provide that information if there's  
17 a citizenship question on the census, correct?

18 MR. EHRLICH: Objection. Form. Mischaracterizes  
prior testimony

19 THE WITNESS: Yes.

20 BY MS. FIDLER:

21 Q How do omissions affect both sides --

22 MR. EHRLICH: Counsel, can I just

1 interrupt for one second? I think we've reached  
2 our time. Are you nearing an end of the  
3 questioning?

4 MS. FIDLER: Yeah. I've got, like, one  
5 question, possibly two.

6 MR. EHRLICH: Okay. Because I think  
7 Dr. Abowd also needs a break anyway. So it works  
8 out.

9 MS. FIDLER: Thank you.

10 BY MS. FIDLER:

11 Q How do omissions affect both sides of net  
12 undercount calculations?

13 A No, what I said is that net undercount is  
14 the difference between omissions and erroneous  
15 enumerations, plus whole census [sic] imputations.  
16 And the enumeration difficulties that you were  
17 asking me about can both affect gross omissions  
18 and erroneous enumerations and whole-person  
19 imputations; since there's a difference, they can  
20 cancel.

21 MS. FIDLER: That's actually my last  
22 question. Thank you so much for your patience.

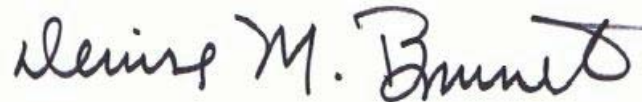
1 And I'm done with questioning for today.

2 THE VIDEOGRAPHER: Going off the record  
3 at 11:55.

4 (Whereupon, at 11:55 a.m., the deposition  
5 of JOHN M. ABOWD was concluded.)  
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CERTIFICATE OF NOTARY PUBLIC

I, Denise M. Brunet, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was sworn by me; that the testimony of said witness was taken by me stenographically and thereafter reduced to print by means of computer-assisted transcription by me to the best of my ability; that I am neither counsel for, related to, nor employed by any of the parties to this litigation and have no interest, financial or otherwise, in the outcome of this matter.



-----  
Denise M. Brunet  
Notary Public in and for  
The District of Columbia

My commission expires:  
December 14, 2022

1 New York Immigration Coalition v. US Dept. of Commerce  
2 John Abowd 30(b)(6)

3 INSTRUCTIONS TO THE WITNESS

4 Please read your deposition over  
5 carefully and make any necessary corrections.  
6 You should state the reason in the  
7 appropriate space on the errata sheet for any  
8 corrections that are made.

9 After doing so, please sign the errata  
10 sheet and date it.

11 You are signing same subject to the  
12 changes you have noted on the errata sheet,  
13 which will be attached to your deposition.

14 It is imperative that you return the  
15 original errata sheet to the deposing  
16 attorney within thirty (30) days of receipt  
17 of the deposition transcript by you. If you  
18 fail to do so, the deposition transcript may  
19 be deemed to be accurate and may be used in  
20 court.

21  
22 3028797



1 New York Immigration Coalition v. US Dept. of Commerce

2 John Abowd 30(b)(6)

3 E R R A T A

4 - - - - -

5 PAGE LINE CHANGE

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7 Reason: \_\_\_\_\_

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9 Reason: \_\_\_\_\_

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1 New York Immigration Coalition v. US Dept.of Commerce  
2 John Abowd, 30(b)(6)

3 ACKNOWLEDGMENT OF DEPONENT

4 I, \_\_\_\_\_, do  
5 hereby certify that I have read the foregoing  
6 pages and that the same is a correct  
7 transcription of the answers given by  
8 me to the questions therein propounded,  
9 except for the corrections or changes in form  
10 or substance, if any, noted in the attached  
11 Errata Sheet.

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13 \_\_\_\_\_  
14 DATE

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2016. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.



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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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